S. HRG. 101-1151

PUERTO RICO STATUS REFERENDUM ACT—S. 712

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 712

TO PROVIDE FOR A REFERENDUM ON THE POLITICAL STATUS OF PUERTO RICO

NOVEMBER 9, 1989

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PUERTO RICO STATUS REFERENDUM ACT—S. 712

THURSDAY, NOVEMBER 9, 1989

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The committee met, pursuant to notice, at 10:15 a.m., in room SR-332, Russell Senate Office Building, Hon. Patrick J. Leahy (chairman of the committee) presiding.

Present or submitting a statement: Senators Leahy, Harkin, Fowler, Daschle, Lugar, Helms, McConnell, and Gorton.

STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM VERMONT

The CHAIRMAN. I want to welcome all of you, and if there are others who wish to join, feel free. This is a rather unique hearing, and as I look around the hearing room I see many familiar faces here; people who have testified before this committee, and it is a pleasure for me to have you all here.

Governor Rafael Hernández Colón, it is nice to have you here, sir. You are no stranger to this room. It is nice to have the former Governor, Governor Romero. You have certainly been here before.

Congressman [Jamie B. Fuster] needs no introduction to us, and I am glad to have the representatives of the Independence Party here.

The nutrition provisions in the referendum bill are important and I am pleased that all of you are here to testify. You all have an interest in this, and you should all have this chance. I will make sure that everybody has a fair and full opportunity to present his case before this committee.

Even though my State, certainly among those States in the East, is as far away from Puerto Rico as any could be, right up against the Canadian border, I think all of you know I am a long-term friend of Puerto Rico. I have enjoyed the hospitality of your people. There has never been a time that I have been in Puerto Rico that I have not enjoyed it. I have visited both the larger cities and some of the smallest towns.

My wife and I, my mother and father, my parents-in-law, and my children, have spent time over the years in Puerto Rico, and every time has been memorable, and we have enjoyed it.

I must say incidently, before anybody thinks that only happens in January or February, I have also been there in July, June, and other times of the year too. It makes no difference. The warmth of

the welcome that I have received has exceeded even the warmth of the Caribbean Sun.

I have said many times in this committee that the issue of hunger is a moral issue—and a moral challenge. I am pleased that this committee has responded to this challenge in a bipartisan manner.

I am pleased that you have come up here to address this challenge and have done it in a bipartisan or multipartisan manner.

The citizens of Puerto Rico should not be forced to vote their bellies. They should be voting with their hearts and their minds. Getting them enough food is the issue—the only issue.

We must provide a decent level of nutrition to those in need. I am interested in feeding hungry children in Puerto Rico. I want to know if low-income pregnant women are getting enough to eat. We want to know if infants are malnourished because of poverty or poor diet. That is the issue before this committee.

Fairness demands that those in need have adequate food, whether the citizens of Puerto Rico select statehood or commonwealth independence. Parity demands a decent level of nutrition.

The reports I have been hearing are disturbing. I am very concerned that the Nutrition Assistance Program is inadequate—we need to be fair to Puerto Rico.

Hunger is not a simple issue. There are different aspects of hunger depending upon who you are and where you live. In this world, and certainly in our country, hunger should not exist at all.

Hurricane Hugo has only made matters worse.

Governor, you and the Congressman were giving me the list of all of the damage in Puerto Rico. It is almost impossible for those of us who have not been hit by something like this to even imagine what your island has been faced with.

And, Governor Romero, you were mentioning that yesterday at the luncheon; I know that it is very difficult, a very difficult thing.

So we should address this issue of hunger by looking at the nutritional needs of low-income Puerto Rican families. We will not play politics with hunger.

I want to know about the Nutrition Assistance Program. Can it do the job given its limited funding? Is the Food Stamp Program the answer? Is there some other approach, not yet contained in the bill, that is even better?

The Majority Leader has told me that he hopes that we would be moving forward on this bill fairly rapidly. And I would hope, and I would want to consult, of course, with Senator Lugar on this, but I would hope that shortly after we come back in session next year, we would be able to start the actual drafting of the legislation.

[The prepared statement of Hon. Patrick J. Leahy follows:]

PREPARED STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM VERMONT

HEARING ON THE PUERTO RICO REFERENDUM BILL

I am very pleased that the Governor of Puerto Rico, the former Governor of Puerto Rico and a representative of the Independence Party have accepted my invitation to testify on the nutrition provisions of the referendum bill.

Each party will receive a fair and full opportunity to present their case before this committee.

I have said many times that the issue of hunger is a moral issue—and a moral challenge. I am pleased that this committee has responded to this challenge in a bipartisan manner.

The citizens of Puerto Rico should not be forced to vote their bellies. Getting them enough food is the issue—the only issue.

We must provide a decent level of nutrition to those in need. I am interested in feeding hungry children in Puerto Rico. I want to know if low-income pregnant women are getting enough to eat. We want to know if infants are malnourished because of poverty and poor diet.

Fairness demands that those in need have adequate food, whether the citizens of Puerto Rico select statehood or commonwealth. Parity demands a decent level of nutrition.

The reports I have been hearing are disturbing. I am very concerned that the Nutrition Assistance Program is inadequate—we need to be fair to Puerto Rico.

Hurricane Hugo has only made matters worse.

We want to hear from you on this important issue. The committee will address this issue by looking at the nutritional needs of low-income Puerto Rican families. We must not play politics with hunger.

Please provide us with straight answers on the Nutrition Assistance Program—given its limited funding can it do the job? Is the Food Stamp Program the answer? Is there some other approach, not yet contained in the bill, that is even better?

I have not met with the Majority Leader on this bill and I expect that we will hold markup next year.

The CHAIRMAN. Dick, I yield to you.

STATEMENT OF HON. RICHARD G. LUGAR, A U.S. SENATOR FROM INDIANA

Senator LUGAR. Thank you very much, Mr. Chairman.

You know that we look forward to cooperating with you on our side of the aisle, and expediting consideration of the portion of this legislation within our jurisdiction.

I would join you in your warm welcome to the witnesses and our guests today from Puerto Rico. As a point of personal privilege, I will mention that then-Mayor Carlos Romero-Barcelo came to Indianapolis for the Mayors' Breakfast before the Speedway Race.

The CHAIRMAN. When you were Mayor.

Senator LUGAR. When I was Mayor of Indianapolis. I am delighted once again to recall that happy time as well as the great National League of Cities Convention that was held in Puerto Rico during our tenure as mayors. That led me to a very deep interest in problems of Puerto Rico, and that has continued.

The particular focus today gives the committee an insight into the problems of nutrition. I suspect that we will have other insights as we hear the testimony. I have read ahead through some of it. I look forward to hearing both the testimony and additional comments and the questions. But this is an issue of great importance with regard to the referendum bill.

I will not make a comment about that act one way or another. Our focus this morning will be simply to try to investigate those provisions that pertain to food stamps.

We are hopeful we can make a generous and thoughtful contribution.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

The prepared statements of Senators Harkin and Helms, without objection, will be inserted in the hearing record.

PREPARED STATEMENT OF HON. TOM HARKIN, A U.S. SENATOR FROM IOWA

Mr. Chairman, the legislation we are considering today will allow the people of Puerto Rico to determine their own future by voting whether to enjoy enhanced commonwealth status, become a State or become an independent nation. The legislation presents a very difficult choice with momentous long-term consequences.

For this committee, the most important aspect of this legislation relates to nutrition and hunger assistance for the people of Puerto Rico. Puerto Rico is a very poor island. The average income level is less than half that of our poorest State, with 62 percent of the population having incomes below the U.S. poverty line, and 43 percent receiving food assistance. Moreover, because most of the food supply must be imported from the United States, food prices are considerably higher than in the United States.

The people of Puerto Rico had been eligible to receive benefits under the U.S. Food Stamp Program from the time of its inception until 1982, when the program was replaced by annual capped block grants to the Island. The funding for the grants was significantly reduced, thus denying thousands of needy individuals food assistance and reducing the level of assistance to recipients.

It behooves this committee to use this opportunity to examine broader questions of U.S. policy on food assistance to the people of Puerto Rico, regardless of the outcome of voting on statehood status.

The low level of food assistance benefits to the people of Puerto Rico—U.S. citizens—is particularly troubling. Virtually all other U.S. citizens, including those in the territories of Guam, the Northern Marianas, and the Virgin Islands are eligible for full food stamp benefits.

This legislation provides for immediate full food stamp benefits if Puerto Rico becomes a State, but does not provide for improvement in food assistance if the people of the Island choose to continue Commonwealth status. I am concerned that the adequacy of food assistance to these U.S. citizens would thus depend on the outcome of the the vote on statehood.

Moreover, the legislation appears likely to distort the outcome of the vote on Puerto Rico's status. To a hungry person, the promise of an immediate hike in food assistance could easily overshadow completely the fundamental choices associated with the vote. Hunger should not determine the outcome of voting among U.S. citizens.

I hope that today's hearing will help to clarify the important issues pertaining to food assistance for the people of Puerto Rico.

PREPARED STATEMENT OF HON. JESSE HELMS, A U.S. SENATOR FROM NORTH CAROLINA

Mr. HELMS. Mr. Chairman, I commend you for holding hearings on this legislation. The Senate Agriculture Committee faces an interesting task today. We are reviewing a bill that will decide a very contentious issue in Puerto Rico—that of enhancing its Commonwealth status, becoming a State, or becoming an independent country. I am pleased the proponents of each status have agreed to let the people of Puerto Rico decide this issue for themselves, and S. 712 will allow such a referendum.

While I understand that our committee's jurisdiction is limited to the issue of food stamps and the Nutrition Assistance Act (NAP) in Puerto Rico, I would like to state for the record my concern about the thrust of this bill as it emerged from the Energy Committee, and the bias it shows in favor of statehood over the other options.

It is to my understanding that if the people of Puerto Rico vote to become a State, the Food Stamp Program would be introduced *immediately* during the first year of statehood on the same basis as any other State—probably in fiscal 1992. A vote for Commonwealth status provides *no* progress in the area of nutrition services. In addition, if Puerto Rico becomes a State, it will not begin contributing to the Federal Treasury until 4 years after becoming a State, and will not be treated like a State for tax purposes until 1999.

Mr. Chairman, I strongly believe the most important aspect of the Puerto Rico status vote should be a "politically level playing field" with regard to all the options. All I have to do is note that almost 43 percent of Puerto Rico's citizens currently receive nutrition assistance and that CBO estimates say statehood will result in an *increase of $700 million* in nutrition benefits, and I can take a pretty good guess as to how the vote will turn out. Mr. Chairman, it sounds to me like S. 712 invites three horses to a race, but allows one of the horses to start half way around the track.

The proponents of statehood have managed to place a very attractive lure in S. 712 which they are dangling in front of the hungry and poor of Puerto Rico. In addition to those who will receive greater benefits under statehood, tens of thousands of people who do not receive benefits now will be newly eligible. And I hardly think these people will be in a position to consider the fundamental long-term implications of each status option.

The question of political status, including the option of Puerto Rico becoming the 51st State, is so important that it should not be tainted by a process that encourages voters to calculate the number of benefits they can get under one option as opposed to another.

Mr. Chairman, we all agree that the truly needy should not have to endure hunger. But we are not here to decide food benefits for the people of Puerto Rico—that is something that can be answered in the 1990 farm bill. We are here to consider whether it is prudent and fair to allow a referendum on the status of Puerto Rico which is greatly tilted in favor of statehood, and induces and misleads the people of Puerto Rico into voting for statehood to get immediate benefits. I am hopeful my colleagues will agree that S. 712 does not provide the type of level playing field necessary to answer the issue of statehood for Puerto Rico.

The CHAIRMAN. Our first witness will be Governor Hernández Colón. And I might say, Governor, just this morning, coincidentally, speaking with both my sons back up in Vermont, one is a law student and the other just finished his basic training in the Marines, I mentioned that you were going to testify. Both said to say hello to you because they remember with great fondness your description for them of Puerto Rico and the hospitality you have shown both of them. I just want you to know they remember that.

STATEMENT OF HON. RAFAEL HERNÁNDEZ COLÓN, GOVERNOR, COMMONWEALTH OF PUERTO RICO, SAN JUAN, PR, AND PRESIDENT, POPULAR DEMOCRATIC PARTY

Governor HERNÁNDEZ COLÓN. Thank you, Mr. Chairman. And please give them my very warm regards.

THANK YOU

Mr. Chairman and Senator Lugar, first of all, I want to thank you for your warm remarks about Puerto Rico and the memories that link you to our island. We truly appreciate the way that you value Puerto Rico and the relationship that we have with you in the United States.

NUTRITIONAL SUBJECT IN A VERY STRANGE CONTEXT

I am here today to discuss the nutritional subject in a very strange context from the point of view of this committee, I would say. This is the first time that the matter has been addressed from the perspective that I am going to address it, or that we are going to address it today.

PLEBISCITE TO BE HELD IN PUERTO RICO

But a plebiscite to be held in Puerto Rico in the summer of 1991 brings us here, and that plebiscite will set the course of our future political relationship to the United States.

Our people are going to choose between three clearly defined status options: One option is what we have right now, but improved, to remain associated with the United States as an enhanced Commonwealth; the second is to become a member of the Union; and a third option is to sever all ties and become independ-

ent. That momentous choice sealing the political destiny of our people, once made according to S. 712, which you have before you, will be irreversible, binding and self-executing, the bill so provides.

BALANCED OPTIONS ARE CRUCIAL IF THE PEOPLE OF PUERTO RICO ARE TO EFFECTIVELY EXERCISE THEIR RIGHT TO SELF-DETERMINATION AND ASSURE THE LEGITIMACY AND THE INTEGRITY OF THE DEMOCRATIC PROCESS

In order for the choice to rest with the people of Puerto Rico, the U.S. Congress has to present to them three balanced options. If the options are unbalanced, it is the Congress who will be making the choice in structuring the options rather than the people. Balanced options are crucial if the people of Puerto Rico are to effectively exercise their right to self-determination and assure the legitimacy and the integrity of the democratic process.

S. 712 IS FATALLY FLAWED

That is why I am here. The issue before you, Senators, is that the status referendum bill, as it stands, is unbalanced between the options. S. 712, as reported by the Energy and Natural Resources Committee, is fatally flawed.

The present version of S. 712 provides for parity in all Federal social programs upon admission into the Union, as proposed by the New Progressive Party. However, it denied that parity to the Commonwealth option.

The political effects of this are very easy to understand. These programs target more than half of the Puerto Rico electorate. They offer tangible economic benefits to the following groups:

Nutrition assistance benefits 440,000 households. The monthly benefits for a family of four would climb from $199 to $331.

About 75,000 aged and 115,000 disabled persons would start receiving SSI, with average benefits of $260 and $430 a month, respectively.

Expanded Medicaid health benefit would reach 2.1 million persons, at a cost of $900 million in additional Federal spending.

IT IS INCUMBENT UPON THIS COMMITTEE TO RECTIFY THIS SITUATION AS FAR AS NUTRITIONAL ASSISTANCE IS CONCERNED

This offer by the Energy and Natural Resources Committee has already had an impact on the Puerto Rican electorate, as reported in the Washington Post last week. For the first time in history statehood came out ahead in a poll in Puerto Rico.

It is incumbent upon this committee to rectify this situation as far as nutritional assistance is concerned. A decision to join the Union should turn on fundamental values rather than on cash payments to be received, or the false promise of an alleged "economic bonanza."

The Energy and Natural Resources Committee omitted the section on parity for enhanced Commonwealth "because the programs were within the primary jurisdiction of other Committees." It further noted in its report that "there is nothing inherent in the Commonwealth relationship which precludes parity treatment of Puerto Rico in Federal social programs."

Yet, even while recognizing that Federal Social programs were not within its jurisdiction, the Energy and Natural Resources Committee did develop language to extend full benefits under statehood to Puerto Rico, just 6 months after the 1991 referendum, and to make the offer more tempting, it provided that the benefits should be received in checks rather than food stamps in this program.

One of the basic postulates of the U.S. federation is the equality between its citizens. In times of war there is certainly no distinction between citizens, and Puerto Ricans have fought honorably and proudly in every U.S. war since 1917. Inherent in the notion of equality for all citizens is the principle of fundamental fairness. The aim of the Food Stamp legislation was precisely to assure that no family in America should go hungry. Our society is based on the firm belief that all U.S. citizens who are unable to provide for themselves in our free enterprise system are entitled to a minimal safety net.

PUERTO RICO IS THE ONLY JURISDICTION IN THE UNITED STATES WHICH DOES NOT QUALIFY FOR FULL ASSISTANCE UNDER THE FOOD STAMP PROGRAM

Yet Puerto Rico is the only jurisdiction in the United States which does not qualify for full assistance under the Food Stamp Program. Guam, the Commonwealth of the Northern Marianas, and the Virgin Islands, all participate fully in the Food Stamp Program even though they are not States. In fact, non-U.S. citizens residing in any of the 50 States receive more nutritional assistance than U.S. citizens residing in Puerto Rico. The limitations currently imposed on these benefits to needy families of Puerto Rico, and which the bill reported by the Energy Committee perpetuated, are arbitrary, unfair, and discriminatory.

This has not always been so. Puerto Rico enjoyed parity under Commonwealth from 1974 to 1982, when the Island's poor families, like those residing in the neighboring U.S. Virgin Islands or the State of Minnesota, participated fully in the Food Stamp Program. Then, in 1982, in the midst of a severe economic crisis in the United States, Puerto Rico was singled out and excluded from participation in the Food Stamp Program. Instead, a capped nutrition assistance block grant was established, at a funding level 25 percent less than under the Food Stamp Program. And this reduced level of funding was frozen for 4 years. 100,000 low-income families had to be dropped from the program. As a result, food consumption in Puerto Rico stagnated through 1985, as did U.S. agricultural exports to Puerto Rico.

The needy people of Puerto Rico face the same need for food as the needy people in Guam, or the needy people in New York. Hunger, as the chairman said, is universal, and it is felt in the same manner here and everywhere. It is my firm conviction that the applicability of Federal social programs to Puerto Ricans is an issue of basic social justice to U.S. citizens. It is not an issue of political status, and every Commonwealth Governor, and there are two here, whether pro-statehood or pro-Commonwealth, has supported restoring full parity for Puerto Rico.

Yet the existing scheme which discriminates against Puerto Rico in the application of Nutrition Assistance seems to ignore this obvious fact.

THE ONLY REASON FOR THIS DISCRIMINATION IS GEOGRAPHICAL, AND ITS RESULTS ARE TRULY DISTRESSING

The only reason for this discrimination is geographical, and its results are truly distressing. The average family of four receives a monthly allotment of $199 under Puerto Rico's NAP, while in all other jurisdictions of the United States, under the Food Stamp Program, the corresponding allotment is at least $331. Under the national Food Stamp Program a family with an annual income of $15,732 or less is eligible for nutritional assistance, while in Puerto Rico the eligibility level has a ceiling of just $8,000, although food costs in Puerto Rico are 32.7 percent higher than in the Washington, D.C. area. As a result, the per capita consumption of food in Puerto Rico is only 58 percent of the corresponding consumption of food in the United States. These figures reveal the harsh reality faced by the less privileged U.S. citizens of Puerto Rico. The nutritional requirements of the needy children of Puerto Rico cannot be met.

WE SEEK FAIRNESS FOR OUR NEEDY FAMILIES, NOT DEPENDENCY

Let us establish clearly here, that we seek fairness for our needy families, not dependency. My administration, in fact, incorporated a work component to the existing Nutritional Assistance Program in Puerto Rico, through a waiver from the U.S. Department of Agriculture that permits us to structure a work-incentive program. In this manner, the program also contributes to general new economic production and added self-sufficiency.

Even if there were no plebiscite in Puerto Rico, this situation should be redressed. But given the plebiscite, the need to do so is critical and essential if there is to be a free choice. If the people of Puerto Rico are to truly exercise their right to self-determination they have to be presented with three balanced alternatives. Without parity in Nutritional Assistance for enhanced Commonwealth, S. 712 will not be balanced between the options.

THE STATUS REFERENDUM SHOULD NOT BE CONVERTED INTO AN ELECTION ON THE LEVEL OF SOCIAL BENEFITS AVAILABLE TO THE NEEDY U.S. CITIZENS OF PUERTO RICO

Senators, the status referendum should not be converted into an election on the level of social benefits available to the needy U.S. citizens of Puerto Rico.

There is much at stake here.

We visualize the Commonwealth relationship as a permanent one. For us, who defend it, it is not a halfway house to either statehood or independence, but rather the optimal creative solution to the problems of a developing society in its aspirations for progress. Commonwealth has given us the tools to prosper and flourish within a most improbable setting, finding our own place as a proud people in the community of nations. Once considered a "stricken land," which was the title of a book by Rexford Tugwell about

Puerto Rico, the poorest of the poor countries in the hemisphere, particularly in the Caribbean, Puerto Rico today enjoys the highest standard of living in Latin America, and is a model of democracy and prosperity. Although we have come a long way, our per capita income is only one-third the U.S. average, and about half of Mississippi's, the poorest State in the Union.

WE ARE CONVINCED THAT STATEHOOD IS NOT A VIABLE OPTION FOR PUERTO RICO

We are convinced that statehood is not a viable option for Puerto Rico. It is not a practical solution for Puerto Rico's problems, and it is not in the best interests of the United States as a whole. The elimination of Puerto Rico's fiscal autonomy under statehood would precipitate Puerto Rico into an economic catastrophe of unimaginable proportions, shattering the social solidarity and threatening the stability of our prosperous society. This spiral of decline would destroy our self-sufficiency, demanding ever-increasing Federal outlays, creating a state of growing and inescapable dependency.

If Commonwealth is to be given a fair chance, and if it is to be a fair and permanent alternative, then there must be fair and equitable treatment of citizens in assistance programs. By denying the U.S. citizens of the Commonwealth of Puerto Rico the opportunity to participate fully in the Nutritional Assistance Program, Congress is drawing an unjust divide which separates us from our fellow citizens in the other jurisdictions.

THERE SHOULD BE NO DISCRIMINATION AGAINST THOSE WHO PROUDLY BEAR U.S. CITIZENSHIP

The mother of a hungry child in Puerto Rico cannot understand the artificial distinctions that deprive her and her child of adequate nutritional assistance. She is caring for a child that one day may be called, as was his grandfather, to give his life in again defending the U.S. flag and the democratic values it symbolizes, in a war. Yet, she is denied the basics to feed that child. There should be no discrimination against those who proudly bear U.S. citizenship. This makes absolutely no sense.

This inequality needs to be redressed.

Senators, it is your responsibility to assure that in the summer of 1991, the people of Puerto Rico truly exercise their right to self-determination, and choose among three balanced and fair options. As S. 712 stands right now, the choice is being made by Congress, not by the people of Puerto Rico. In order to correct this, the provisions requiring parity in the social programs stricken out by the Energy Committee must be reinstated into that bill.

Thank you very much.

[The prepared statement and responses to Senator Dole's questions of Governor Hernández Colón follow:]

TESTIMONY OF THE HONORABLE RAFAEL HERNANDEZ COLON
GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO
BEFORE THE
SENATE AGRICULTURE, NUTRITION AND FORESTRY COMMITTEE
NUTRITIONAL ASSISTANCE HEARINGS

November 9, 1989

Mr. Chairman, distinguished members of the Agriculture, Nutrition and Forestry Committee:

I am here today to address an issue of vital importance to both Puerto Rico and the United States. Sometime during the summer of 1991, the people of Puerto Rico are going to exercise their right to self-determination, setting the course of their future political relationship to the United States. They are going to choose between three clearly defined status options: to remain associated to the United States through either enhanced Commonwealth or Statehood, or to sever all ties to the U.S. through independence. That momentous choice sealing the political destiny of a people, once made, will be irreversible, binding and self-executing.

In order for the choice to rest with the people of Puerto Rico, the U.S. Congress has to present to them three balanced options. If the options are unbalanced, it is the Congress who makes the choice, not the people. Balanced options are crucial if the People of Puerto Rico are to effectively exercise their right to self-determination and assure the legitimacy and integrity of the democratic process.

That is why I am here. The issue before you, Senators, is that the Status Referendum bill, as it stands, is unbalanced between the options. S. 712, as reported by the Energy and Natural Resources Committee, is fatally flawed.

The present version of S. 712 provides for parity in all Federal social programs upon admission into the Union, as proposed by the New Progressive Party. However, it denied that parity to the Commonwealth option.

The political effects of this are easy to understand. These programs target more than half of the Puerto Rico electorate. They offer tangible economic benefits to the following groups:

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This offer by the Energy and Natural Resources Committee has already had an impact on the electorate, as reported in the Washington Post last week. For the first time in history statehood came out ahead in a poll in Puerto Rico.

It is incumbent upon this Committee to rectify this situation. A decision to join the union should turn on fundamental values rather than on cash payments to be received, or the false promise of an alleged "economic bonanza."

The Energy and Natural Resources Committee omitted the section on parity for enhanced Commonwealth "because the programs were within the primary jurisdiction of other Committees." It further noted in its report that "there is nothing inherent in the Commonwealth relationship which precludes parity treatment of Puerto Rico in Federal social programs."

Yet, even while recognizing that Federal social programs were not within its jurisdiction, the Energy and Natural Resources Committee did develop language to extend full benefits to Puerto Rico, just six months after the 1991 referendum, and to make the offer more tempting, it provided that the benefits should be received in checks rather than food stamps.

One of the basic postulates of the U.S. federation, is the equality between its citizens. In times of war there is certainly no distinction between citizens, and Puerto Ricans have fought honorably and proudly in every U.S. war since 1917. Inherent in the notion of equality for all citizens is the principle of fundamental fairness. The aim of the Food Stamp legislation was precisely to assure that no family in America should go hungry. Our society is based on the firm belief that all U.S. citizens who are unable to provide for themselves in our free enterprise system are entitled to a minimal safety net.

Yet Puerto Rico is the only jurisdiction in the United States which does not qualify for full assistance under the Food Stamp Program. Guam, the Commonwealth of the Northern Marianas, and the Virgin Islands, all participate fully in the Food Stamp Program even though they are not states. In fact, non U.S. citizens residing in any of the 50 states receive more nutritional assistance than U.S. citizens residing in Puerto Rico. The limitations currently imposed on these benefits to needy families of Puerto Rico, and which the bill reported by the Energy Committee perpetuated, are arbitrary, unfair, and discriminatory.

This has not always been so. Puerto Rico enjoyed parity under Commonwealth from 1974 through 1982, when the Island's poor families, like those residing in the neighboring U.S. Virgin Islands or the state of Minnesota, participated fully in the Food Stamp Program. Then, in 1982, in the midst of a severe economic crisis in the U.S., Puerto Rico was excluded from participation in the Food Stamp Program. Instead, a capped nutrition assistance block grant was established, at a funding level 25% lower than under the food stamp program. And this

reduced level of funding was frozen for four years. 100,000 low-income families had to be dropped from the program. As a result, food consumption in Puerto Rico stagnated through 1985, as did U.S. agricultural exports to Puerto Rico.

The needy people of Puerto Rico face the same need for food as the needy people in Guam, or the needy people in New York. Hunger is universal, and it is felt in the same manner here and everywhere. It is my firm conviction that the applicability of Federal social programs to Puerto Ricans is an issue of basic social justice to U.S. citizens. It is not an issue of political status, and every Commonwealth governor, whether pro-Statehood or pro-Commonwealth, has supported restoring full parity.

Yet the existing scheme which discriminates against Puerto Rico in the application of Nutrition Assistance seems to ignore this obvious fact.

The only reason for this discrimination is geographical, and its results are truly distressing. The average family of four receives a monthly allotment of $199 under Puerto Rico's NAP, while in all other jurisdictions of the U.S., under the Food Stamp Program, the corresponding allotment is $331. Under the national Food Stamp Program a family with an annual income of $15,732 or less is eligible for nutritional assistance, while in Puerto Rico the eligibility level has a ceiling of just $8,000, although food costs in Puerto Rico are 32.7% higher than in the Washington, D.C. area. As a result, the per capita consumption of food in Puerto Rico is only 58% of the corresponding consumption of food in the United States. These figures reveal the harsh reality faced by the less privileged U.S. citizens of Puerto Rico. The nutritional requirements of the needy children of Puerto Rico cannot be met.

Let us establish clearly here, that we seek fairness for our needy families, not dependency. My administration, in fact, incorporated a work component to the existing Nutritional Assistance Program in Puerto Rico, through a waiver from the U.S. Department of Agriculture that permits us to structure a work-incentive program. In this manner, the program also contributes to general new economic production and added self-sufficiency.

Even if there were no plebiscite in Puerto Rico, this situation should be redressed. But given the plebiscite, the need to do so is critical and essential if there is to be a free choice. If the people of Puerto Rico are to truly exercise their right to self-determination they have to be presented with three balanced alternatives. Without parity in Nutritional Assistance for enhanced Commonwealth, S.712 will not be balanced between the options.

Senators, the status referendum should not be converted into an election on the level of social benefits available to the needy U.S. citizens of Puerto Rico.

There is much at stake here.

We visualize the Commonwealth relationship as permanent. For us, it is not a half-way house to either statehood or independence, but rather the optimal creative solution to the problems of a developing society in its aspirations for progress. Commonwealth has given us the tools to prosper and flourish within a most improbable setting, finding our own place as a proud people in the community of nations. Once considered a "stricken land," the poorest of the poor countries in the hemisphere, Puerto Rico today enjoys the highest standard of living in Latin America, and is a model of democracy and prosperity. Although we have come a long way, our per capita income is only 1/3 the U.S. average, and about half of Mississippi's, the poorest state in the Union.

We are convinced that statehood is not a viable option for Puerto Rico. It is not a practical solution for Puerto Rico's problems, and it is not in the best interests of the United States as a whole. The elimination of Puerto Rico's fiscal autonomy under statehood would precipitate Puerto Rico into an economic catastrophe of unimaginable proportions, shattering the social solidarity and threatening the stability of our prosperous society. This spiral of decline would destroy our self-sufficiency, demanding ever increasing federal outlays, creating a state of growing and inescapable dependency.

If Commonwealth is to be a fair and permanent alternative, then there must be fair and equitable treatment of citizens in assistance programs. By denying the U.S. citizens of the Commonwealth of Puerto Rico the opportunity to participate fully in the Nutritional Assistance program, Congress is drawing an unjust divide which separates us from our fellow citizens in the other jurisdictions.

The mother of a hungry child in Puerto Rico cannot understand the artificial distinctions that deprive her and her child of adequate nutritional assistance. She is caring for a child that one day may be called, as was his grandfather, to give his life in again defending the U.S. flag and the democratic values it symbolizes, in a war. Yet she is denied the basics to feed that child. There should be no discrimination against those who proudly bear U.S. citizenship. This makes absolutely no sense.

This inequality needs to be redressed.

Senators, it is your responsibility to assure that in the summer of 1991, the people of Puerto Rico truly exercise their right to self-determination, and choose among three balanced and fair options. As S. 712 stands right now, the choice is being made by Congress, not by the people of Puerto Rico. In order to correct this, the provisions requiring parity in the social programs stricken out by the Energy Committee must be reinstated into the bill.

COMMONWEALTH OF PUERTO RICO

OFFICE OF THE GOVERNOR
SAN JUAN, PUERTO RICO 00901

January 5, 1990

Ms. Cynthia Neuwalder
Subcommittee Clerk
Senate Agriculture, Nutrition & Forestry
Committee
SD-647 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ms. Neuwalder:

Enclosed are the answers to Senator Dole's questions on Puerto Rico's Nutritional Assistance Program.

If you need any additional information, please let me know. Thank you for your assistance.

Sincerely,

Fernando Lloveras-San Miguel
Advisor to the Governor
on Federal Affairs

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Enclosure

Questions on Puerto Rico's Nutrition Assistance Program
Submitted by Senator Robert Dole to Governor Rafael Hernández Colón.

Q. 1 Under the Nutrition Assistance Program (NAP), Puerto Rico has a great deal of flexibility in designing its food assistance program. One of the ways you have used this flexibility is to establish a pilot project to provide wage subsidies to employee hiring NAP recipients.
(A) Could you describe for the Committee how recipients and employers participate?
(B) What are your future plans for the projects?

A. The Workings of the Pilot Projects

Puerto Rico has implemented two separate pilot programs to promote work and self-sufficiency among NAP recipients.

Advancing Agricultural Employment. As part of a special effort to promote agricultural production and employment, under a special waiver the Department of Social Services amended NAP's eligibility rules to disregard income derived from seasonal, short-term agricultural employment in establishing the NAP benefit. This change in the eligibility formula increased the rewards to agricultural employment, augmenting the net, after-tax rewards to work by approximately 30%. The program has proved highly successful in meeting the additional labor demand necessary to harvest the increased agricultural production achieved over the past few years, particularly in coffee and sugar production, without having to import farm workers from neighboring islands. At the peak season of both the coffee and sugar cane crops there are approximately 27,000 workers, many of which are benefiting from this wage incentive initiative. By freeing NAP recipients living in isolated, rural communities from the fear that their vital nutritional assistance could be permanently reduced for accepting short-term employment, this initiative has succeeded in promoting agricultural employment, and production.

PAN y Trabajo: The Special Wage-Incentive Program. Puerto Rico has also adopted a broader special wage-subsidy program designed to stimulate the creation of new jobs to be filled exclusively by NAP participants. The Special Wage Incentive Program (SWIP) aims simultaneously to enhance the job-creation potential of the Puerto Rican economy and to mitigate the barriers and disincentives to work faced by NAP recipients. Under SWIP, Puerto Rico is authorized to utilize a small portion of the NAP funds to finance a wage-subsidy program, of up to 25% of the prevailing federal minimum wage, exclusively targeted to NAP recipients residing in our most depressed, rural municipalities (out of a total of 78 municipalities, 31 are eligible).

SWIP implements a form of welfare grant diversion, under which public assistance grants are converted into wage subsidies for recipients placed in private sector jobs. This approach has been increasingly recognized as a cost-effective way of promoting self-sufficiency without increasing public assistance costs. Through this mechanism, a portion of a public assistance grant which would normally go directly to recipients is instead routed through a private sector employer (as a wage-subsidy) as an inducement for employers to hire grant recipients. Participation in the program is voluntary, and the participating firms make the ultimate hiring decision. In this manner a nutrition assistance check is converted through wage diversion into a significantly higher paycheck, increasing the nutritional level of the participating families while acting as a potent inducement to work.

In this manner the participating families come closer towards meeting 100% of their nutritional needs. At present, since NAP is capped at a level well-below the parity level enjoyed by all other United States jurisdictions, the needy families in Puerto Rico cannot fully meet their nutritional needs. SWIP aims to complement the limited nutritional assistance funds in order to come closer to our common goal of providing individuals with their basic nutritional needs.

Background. In April 1985, U.S. Senator Russell Long suggested to the Governor of Puerto Rico the use of NAP funds to promote employment in the Commonwealth through wage-subsidy schemes. Subsequently, the Department of Social Services initiated an evaluation of its public assistance

programs to determine alternate methods of reducing dependency and promoting economic self-sufficiency through a wage-subsidy program.

A survey of the NAP recipients disclosed that only 22% of its participants, from 16-60 years of age, were working and 29% of the heads of households were unemployed as of November 1986. Of those unemployed, approximately 50% were under 30 years old, 60% of this amount did not have a definite occupation, 60% had not completed high school and about 50% never worked. 97% informed of their willingness to work and would do so if offered a job.

Upon analyzing the results of the study, the Governor signed Executive Order 4845-A on January 15, 1987, establishing the Special Wage Incentive Program (SWIP). On April 29, 1987, the Puerto Rico Federal Affairs Office in Washington, D.C., submitted the Special Wage Incentive Project proposal to the USDA's Food and Nutrition Service. The proposal was formally approved in August 1988.

USDA authorized the utilization of up to five percent of the NAP block grant to finance the proposed wage-subsidy program. USDA approved the use of the wage-subsidy as an alternate delivery mechanism for nutrition assistance for current NAP recipients residing in our most deprived rural municipalities. The allocated funds could be used to pay a wage subsidy equal to 25% of the Federal minimum wage for each hour worked by newly hired NAP participants up to 40 hours per week; NAP funds not delivered through SWIP would be expended under the general NAP program.

SWIP is jointly administered by the Department of Social Services (DSS), the Economic Development Company (EDA), the Puerto Rico Industrial Development Company (PRIDCO) and the Department of Labor and Human Services. An interagency agreement was signed to establish the responsibility of each agency.

The DSS oversees the entire program, and as custodian of the NAP funds, is responsible for issuing administrative guidelines necessary to assure compliance with federal requirements. The EDA promotes job-creation in the targeted municipalities. EDA performs a full evaluation of potential projects eligible for SWIP participation. PRIDCO formally executes a wage incentive agreement with the eligible employer. In addition, they must ensure that SWIP employers are not receiving any other governmental wage subsidy simultaneously and that reimbursement to employers is not more than the

amount contracted. Once the DSS reviews the certified payroll bill it disburses the funds to the employer through PRIDCO. Our Labor Department complements these efforts by screening participants and referring the qualified candidates for employment.

B. Participation in the Program

During the first year of operation (through November 1989) SWIP employed, full-time, approximately 871 NAP participants, earning close to the federal minimum wage. 13 firms presently participate in the program, engaged primarily in labor intensive manufacturing -- men's and women's clothing, furniture, etc. 12 additional firms are in the promotional pipeline, and will commence operation shortly.

C. Future plans for the project

As with any new venture, considerable energy has been dedicated to achieving the necessary inter-agency coordination. It is our expectation that the program will expand at a faster rate in its second full year of operation. To further this expansion, we are developing an employment motivational plan for NAP participants, auditing the first year's operations, and consolidating some aspects of the administration to improve the program's efficiency.

Q. 2 (A) What do you see as the strengths and weaknesses of the current block grant?
(B) Are you concerned that current rules do not permit for automatic emergency food stamp aid to be provided in cases of disaster like Hurricane Hugo?
(C) Do you think the flexibility provided by the block grant compensates for the lack of emergency aid?

A. Strengths and Weaknesses of the current block grant

Under the block grant program Puerto Rico has discretion to utilize checks as an alternate delivery mechanism for nutritional assistance. The check system has significant advantages over food coupons. The check

system is cheaper to administer than the coupon system, and reduces the likelihood of fraud. CBO has estimated that the administrative savings for Puerto Rico of the check system exceed $60 million per year. Moreover, since the NAP checks can be readily mailed, the check system reduces the costs imposed on NAP participants by eliminating the need to visit monthly the NAP office. In addition, the check system eliminates the stigma and dignitary harm resulting from the clear identification at every grocery line of the NAP recipients. These benefits have been obtained without any reduction in nutritional levels vis-a-vis the coupon system, as established by the Congressionally-mandated study of the program, performed by Mathematica, Inc. in 1985.

It should be noted, however, that a number of states have obtained comparable flexibility in structuring their welfare reform efforts through the waiver mechanism of the national Food Stamp program.

The primary disadvantage of the block grant program is that it results in, and facilitates, significant under-funding of the nutritional needs of needy families in Puerto Rico. The Food Stamp program is designed to meet 100% of the nutritional needs of the nation's residents- citizens and non-citizens alike, in the 50 States, the District of Columbia, the Commonwealth of the Northern Marianas, Guam and the U.S. Virgin Islands. Yet under NAP this objective is not met in Puerto Rico --less than 70% of the nutritional needs of U.S. citizens in Puerto Rico are presently satisfied. Moreover, by having a program separate from the national program, it is easier to single out Puerto Rico for disproportionate cuts in nutritional assistance.

B. Concern that current rules do not permit for automatic emergency food stamp aid to be provided in cases of disaster like Hurricane Hugo

By having a nutritional program separate from the Food Stamp Program, Puerto Rico is not eligible for automatic emergency food assistance in a disaster. Hurricane Hugo is a case in point. While residents of the Virgin Islands, and the Carolinas, received from FEMA emergency food coupons within hours of the catastrophe, in Puerto Rico no emergency nutritional assistance was available. The Commonwealth government had to step in and provide emergency cash assistance of up to $300 per family, at a

total cost of $10 million. This expenditure is not an allowable cost under the cost-sharing rules of FEMA.

C. **Does flexibility compensate for lack of emergency aid?**

No. There are two separate issues involved here -- the nutritional requirements of the truly needy U.S. citizens of Puerto Rico, and the optimal delivery mechanism for this assistance, given Puerto Rico's circumstances. The inadequate level of nutritional assistance is not compensated by a more effective delivery system, or vice-versa.

The CHAIRMAN. Thank you very much, Governor. I appreciate the time you have taken, not only today, but with this committee in the past.

Our next witness will be Governor Romero-Barcelo who is no stranger to this committee. I do not know Governor, if you remember, but I remember very well the first time we met. It was on the subject of nutrition programs in Puerto Rico. A predecessor of mine on this committee was not very favorably disposed toward Puerto Rico. And I recall it being a rainy—the only time we ever have you here it is raining—long afternoon. And I volunteered to stay and hold the hearing so that you would not have to come back another day. I think you found at that time that my attitude toward the nutrition programs of Puerto Rico were considerably different than those of the Senator who did not stay.

I do not know if you remember that or not, but I remember it very well.

STATEMENT OF CARLOS ROMERO-BARCELO, FORMER GOVERNOR OF PUERTO RICO AND PRESIDENT, NEW PROGRESSIVE PARTY, SAN JUAN, PR

Governor ROMERO. I definitely do, Senator. Thank you, Mr. Chairman, and I definitely do remember that incident, and I was very grateful for the fact that you did stay and I did not talk to the winds that day.

APPRECIATION

It meant a lot to us, not only that time, but every opportunity to knock at your door to ask for help for Puerto Rico, you have always been there. You have been a very, very good friend for Puerto Rico, and I also appreciate your kind remarks, your personal remarks about me.

Senator Lugar, I remember very fondly also the time we spent together at the National League of Cities, and you were chairman. We all learned a lot from you. And your demeanor and sense of fairness as chairman guided me when I finally became also chairman of the National League of Cities.

Thank you, Senator.

The CHAIRMAN. Thank you.

Governor ROMERO. Senator, it is nice to have you with us.

Mr. Chairman and Senators, my name is Carlos Romero-Barcelo. I am president of the New Progressive Party of Puerto Rico which advocates statehood for Puerto Rico.

It is a pleasure to appear here today to testify on those portions of S. 712 which fall under the jurisdiction of your Senate Agriculture Committee.

FOOD STAMP PROGRAM STORY

Regarding the Food Stamp Program, I would like to just make an aside and tell a story that was made in Puerto Rico about the Food Stamp Program. I think it is indicative of what it means to us. And I hope my friend does not feel bad about it.

The leader of a local party, not a registered party, it is a Communist Party in Puerto Rico, his name is Carlos Valusise. Supposedly

he went to Cuba to meet with Fidel Castro. And as he was talking to Fidel Castro, Castro asked him what has happened to the Communist movement and the independence movement over there? And Mr. Berrios does notrepresent the Communist section of the independence movement at all. He is a representative of the Democratic faction.

And they said, while smoking cigars, well, you do not seem to be getting ahead any. He said, well, Mr. Castro, we have a very great problem now. He said what's that problem? Well, the United States started this program called the Food Stamp Program. He said Food Stamp Program, what is that? He said, well, they give out these coupons to the people and they go, the people who do not have any money, to buy food, and they can go and buy some food. And he said, well, I suppose they get some hot soup and bread or something for everybody?

He said, no, no, Mr. Castro, not just hot soup and bread. They get eggs in the morning. They can buy eggs and get sausages or bacon and coffee and bread, and then have a good lunch with fish or chicken or something, and the same in the evening. He said they do that? Nobody goes hungry any more? That is right. He said, boy, you got a problem. [Laughter.]

POSITIVE THOUGHTS CONCERNING THE FOOD STAMP PROGRAM

And I say that because I know there are a lot of critics about the Food Stamp Program, and I feel that it might have been my sense, that the Food Stamp Program is one of those achievements in our Democratic society that has taken us far, far ahead because it eliminated hunger as a basic issue in our society. There are still people that go hungry but it is because they do not know how to go about getting the food stamps, because if they did, there is no reason why they should go hungry now in this Nation.

And to have achieved the position where there is no longer any hunger in a society, that is a tremendous achievement for a Democratic society. It creates an environment and an atmosphere that prevents many other things from happening. This has strengthened our Democratic society perhaps.

They say that people who are dependent, said perhaps in one generation it might for those who have never worked for anything else but to eat. And now they don't have to work to eat, maybe they will decide not to work. But their children who do not have to work to eat, then they have to work for something else. They have to work because they want a car, because they want a better home, they want better clothes, they want to travel. Those are social incentives for making them work.

And then we will have a healthier society and a better fed society which gives them more energy to work. So I think it is a very positive program and I just wanted to bring those thoughts to the table.

NOTHING THAT I COULD SAY AGAINST MY GOVERNOR HERE ABOUT ASKING FOR PARITY FOR THE FOOD STAMP PROGRAM IN PUERTO RICO

Now there is nothing that I could say against my Governor here about asking for parity for the Food Stamp Program in Puerto

Rico. I will leave that. We should have it. I would advocate it if I were in his place. And not being in his place, I advocate it.

I MUST TAKE ISSUE WITH HIS STATEMENT THAT THERE IS AN UNFAIR IMBALANCE IN S. 712 BECAUSE IT PROVIDES PARITY AT THE TIME PUERTO RICO BECOMES A STATE

However, I must take issue with his statement that there is an unfair imbalance in S. 712 because it provides parity at the time Puerto Rico becomes a State. I believe that if Congress can give parity to Puerto Rico now, albeit. And I would be for it and I would support it, and I would encourage it to do it.

But to say that it is unfair to the process to have parity when Puerto Rico becomes a State is to say that to become a State is unfair. Because to have parity as a State is part of what being a State means. That is why we advocate statehood, because we want to have equal rights, equal opportunities, and equal obligations. Because, when Puerto Rico becomes a State, those that do not pay Federal income taxes now will pay Federal income taxes to help for the cost of these programs, and that is essential. And that is a great big difference between Commonwealth and statehood.

And he would have that eliminated. I say if it means a benefit for the people of Puerto Rico, so be it. But do not say that it is unfair for the process. No, it is not for the process itself because, as I say, right now the wealthier people of Puerto Rico do not pay taxes. So that the wealthier people can have tax benefits, the people of Puerto Rico, the poor people, carry the burden.

CBO STUDY

There is a study that has been made by the Congressional Budget Office that demonstrates that if Puerto Rico were to become a State, it would cost in the next 4 years approximately $9,200,000,000 more in outlays than it is now. But it does not discuss or it does not mention, it does not talk about what would be the revenues. And the revenues would more than overcome the benefits paid over and above what Commonwealth is getting now. And that we will be discussing in the Senate Finance Committee, where the money coming in from taxes to the Federal Government will more than overcome the additional payments to Puerto Rico.

So that is the reason why it is not unfair. When we become a State, we acquire rights, but we also acquire obligations. So, to say that the process would be token in favor of statehood because of that is a misstatement. It does not reflect the truth. He did not mention or discuss anything about taxes in his testimony. And I think that is something that we have to look for the process.

GIVE PUERTO RICO EQUALITY OF PARITY IN THE PROCESS IN THE FOOD STAMP PROGRAM

And I want to reiterate, I want to underscore, if it is now possible to give Puerto Rico equality of parity in the process in the Food Stamp Program, I think the people of Puerto Rico deserve it. I think the poor should not be held back until the wealthy can pay their taxes. I agree with that. But it was a decision that was made by the Supreme Court in the case of *Patricia Harris* versus *Ro-*

sario, which stated that because Puerto Rico is not a State, we do not have the right to receive the programs for the full benefit, for the full extent of all Federal programs. We are not even entitled to receive a Federal program if Congress does not want to give that program to Puerto Rico. And that is one of the reasons why we want to become a State.

BECOME A STATE SO WE CAN VOTE

We also want to become a State so that we can vote. We can have representation and we can have two Senators.

The Governor says that if Puerto Rico becomes a State, we would have a catastrophe, economic catastrophe. That is what he says here. He says also in Puerto Rico. But he tells the Congress here that it would cost the Congress and the Nation more if Puerto Rico were a State than if it were a Commonwealth.

Now, if it cost the Congress or the Nation more, if Puerto Rico is a State than if it were a Commonwealth, how could it be a catastrophe? If we will be getting more than we will be putting in. That is not correct. We will be putting in more than we will be getting in additional funds.

But how would that good be good for Puerto Rico? It would be good for Puerto Rico because as a State we would have things that we do not have now. Beyond the parity, we would have the right to vote, the right to vote in elections which is an essential part of the American citizenship.

WE DO NOT WANT TO BE CITIZENS OF A DEMOCRATIC NATION AND DISENFRANCHISE OURSELVES AND OUR CHILDREN

We do not want to be citizens of a Democratic nation and disenfranchise ourselves and our children. I cannot look at my children in the eyes. I was notified yesterday that I will be becoming a grandfather for the first time. And I certainly would not want to look at my grandson or my granddaughter in the eyes when I am on my deathbed, and say I did not do anything to give you a guarantee to you that you would have the right to vote in the Nation that you are citizens of.

I did nothing to enfranchise you politically. I will be ashamed to die a U.S. citizen without having the right to vote and the right to representation. That is what citizenship is all about, equality. It is a civil rights issue. It is a voting rights issue.

And as we stand now as a Commonwealth, which is a name, and if you read the case of *Patricia Harris* versus *Rosario,* you will see that Puerto Rico is a territory, as defined by the Supreme Court of Puerto Rico which, in international terms, means economy.

As we are now, we are nothing but a squatter in the Nation. We do not have rights of ownership. You look at the flag and there are only 50 stars. You do not see Puerto Rico represented in there. You will see Vermont. Senator Lugar, you will see Indiana represented there. Senator Harkin, you will see Iowa represented there. I do not see Puerto Rico represented there.

I want to have Puerto Rico represented in that flag also, and now so do the majority of the people of Puerto Rico when they

have begun to understand what statehood is all about for the first time when the facts are coming out, the hearings in Congress.

You should have seen Puerto Rico when they had the hearings in Congress when Senator Bennett Johnston was down there. There were more televisions, a percentage number of televisions, people looking at it than there were here at the Watergate hearings throughout the Nation. Everybody was looking. And they say Puerto Ricans do not understand English. They swear in English. And they were listening to hearings when they were being held here and when they were being held in Puerto Rico.

There has been such an enthusiasm created by the possibility of our going to vote to determine our future, to determine whether we want to be U.S. citizens without a vote or without representation; whether we want to be U.S. citizens with a vote with greater representation, or whether we want to be a Republic so that we can express our choice.

And that is what is so important about that bill. I repeat, what we are here to do is to support the Governor in his request for parity because I think the people of Puerto Rico need it and they deserve it.

But we object to any sense saying that there is a pilfering of the process for statehood. No, no. Statehood looks more favorable in S. 712 because it is more favorable to the people of Puerto Rico. As they understand and learn what it represents, the people will vote for statehood and that is why he is gaining more and more supporters.

TO BE A COMMONWEALTH MEANS TO BE DISENFRANCHISED FOR NOW AND FOREVER, AND MEANS TO DISENFRANCHISE THEIR CHILDREN

And as they understand that to be a Commonwealth means to be disenfranchised for now and forever, and means to disenfranchise their children. And it means that the poor people of Puerto Rico and those that need it have to give up benefits so that the wealthier ones can have tax exemptions, and that is what the basis of the economic foundation of Commonwealth is. And when you hear the Commonwealth supporters talking, they all say we need Commonwealth because it guarantees fiscal autonomy, and what that means if Federal income tax exemption. And who does that benefit?

It does not benefit a single one of the recipients of the Food Stamp Program.

And, further on, the Commonwealth supporters come here and they are against implementation of minimum wages in Puerto Rico. They want it to be implemented at a later date, and with the support of some Senators and Congressmen here, they have it in the bill. Puerto Rico will be phased in later on.

If the wages are lower, you need more food stamps, you need more welfare payments. If the wages are higher, there is less need for welfare payments, there is less need for other assistance payments.

So, Senator, and members of this panel, I would like to once again finally say I support the Governor's request for parity for Puerto Rico at any time, now as a Commonwealth or as a State.

But I must underscore the fact that the bill is not tilted toward statehood. It is a fact that statehood is much better for this Nation and for us in Puerto Rico.

Thank you.

[The prepared statement and responses to Senator Dole's questions of Governor Romero-Barcelo follow:]

REMARKS BY

CARLOS ROMERO BARCELO,
President of the New Progressive Party
and former Governor of Puerto Rico,

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY,

UNITED STATES SENATE,

S. 712, PUERTO RICO STATUS REFERENDUM ACT

Thursday, November 9, 1989

Chairman Leahy, my name is Carlos Romero-Barcelo, President of the New Progressive Party (PNP) of Puerto Rico which advocates statehood for Puerto Rico.

It is a pleasure to appear here today to testify on those portions of S. 712 which fall under the jurisdiction of your Senate Agriculture Committee.

S. 712, as reported by the Senate Energy and Natural Resources Committee, is known as the Puerto Rico Status Referendum Act which would set the groundwork for a plebiscite in 1991 on the ever-present issue of the status of Puerto Rico. This referendum would allow the three options -- continued Commonwealth status, Independence, or Statehood -- to be voted upon by the 3.3 million U.S. citizens of Puerto Rico.

As an advocate for statehood for Puerto Rico, I appear here today to support full parity and equal treatment in the Federal Food Stamp Program, an achievement that will be attained through Puerto Rico becoming the 51st state of the union.

As the Members of this Committee well know, Puerto Rico was taken out the Food Stamp Program of the USDA in the summer of 1982 when I was midway through my second four-year term as Governor of Puerto Rico. At that time, we submitted and promoted a plan for a "check out" nutritional assistance program, which was a pilot project providing direct cash payments to eligible needy families. A "block grant" was mandated by Congress over my

Administration's strong objections because it established a fixed ceiling. No state of the union was limited with such a cap, but, since it became a fait accompli through the Omnibus Budget Reconciliation Act of 1981, we convinced Congress and the Administration to let us establish a pilot program which would allow us to substitute the Food Stamp Program with a new nutritional assistance plan. This plan provides direct monthly nutritional assistance checks to a reduced number of families from the number that had been participating in the existing Food Stamp Program.

This "cash out" of benefits has operated extremely well and is still in place. Recent estimates show that approximately 1.4 million people a month receive benefits under NAP. This figure represents 43% of the Commonwealth population. This new program eliminated many abuses including tax frauds which were an unfortunate result of the food stamp program.

As the Senate-reported version of S. 712 now stands, when statehood becomes a reality for Puerto Rico, a variety of social benefit programs will be extended to the U.S. citizens of Puerto Rico in an equal manner to those of the 50 states. This includes food stamps.

Critics of statehood allege that this increase in individual transfer payment programs "tilts the legislation" toward statehood, and thereby provide an unfair advantage in the referendum process. Our opponents are now working in an attempt to amend S. 712 to postpone the application of individual benefit programs under statehood. They are doing this at the expense of

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the U.S. citizens of Puerto Rico and of well-known constitutional principles, which are now spelled out in S. 712, as reported by the Senate Energy Committee.

It should be noted that under statehood, those individuals and corporations that are able to do so will pay taxes that will more than offset the additional benefits provided to the needy. Under Commonwealth, as things now stand, those that should pay taxes, both individuals and corporations, are not doing so. I support restoration of equal treatment. It is the only just, provident and fair way for this Committee to go. Statehood will accomplish this automatically.

We are now at another watershed in this Committee's relations with Puerto Rico. If the citizens of Puerto Rico, in the proposed 1991 referendum, opt for statehood -- and every indication is that we will win that referendum -- are we to be told that under statehood Congress would continue to apply differing treatment for U.S. citizens? I hope not, and I urge Members of the Committee to look at the long-range benefits that statehood would bring to the U.S. treasury and to other national interests.

On the mainland, our opponents contend that the alleged costs of statehood would drain the U.S. taxpayers and that S. 712, as it now stands, is front-loaded with economic benefits under statehood. In Puerto Rico, the same opponents insist that statehood would drain our taxpayers. This long-running contradiction has been, in large part, exposed for the myth it is after the Senate Energy Committee panel, under the leadership of

Chairman Bennett Johnston, concluded, and I quote from their Senate Report 101-120, page 39:

> "The Committee agrees that based upon the Treasury estimates, statehood would, in the long run, be a net benefit to the Federal treasury over the costs of continued Commonwealth."

In ending our present status, which can only be termed colonial, statehood would give the same nutritional benefits to U.S. citizens no matter where they reside.

In sum, statehood would create additional expenditures in the Food Stamp Program in Puerto Rico, but citizens and corporations in Puerto Rico, now exempt from various federal tax provisions, would start to pay taxes. These new revenues to the Federal treasury would much more than offset the increases in food stamps and the other individual benefit programs of the U.S. government. To provide for a smooth economic transition, S. 712, as reported by the Senate Energy Committee, has provisions that would allow for a phase-in of tax laws. Once Puerto Rico is a state, to deny needy families the immediate benefits would not be constitutionally permissible. S. 712 clearly makes the distinction that needy families in Puerto Rico should not be denied a full meal while we wait for the wealthy to fulfill their duty of paying a just share of Federal taxes. Equal rights and duties is what statehood is all about.

This Committee, in reviewing those provisions of S. 712 which apply to USDA programs and, most specifically, the Food

Stamp program, has an opportunity to support S. 712 which -- as that Committee notes -- is constitutionally required to extend equal treatment when Puerto Rico enters the Union.

At the same time, we believe that the Nutritional Assistance Program has worked well -- through successive administrations of statehood and, now, Commonwealth governors, in helping a large percentage of our population meet their nutritional requirements, even if at a reduced level.

On behalf of all Puerto Ricans, I want you to know that the Senate is poised at a critical juncture in our island's history.

All three of Puerto Rico's political options have had an opportunity to work hand in hand with the Johnston-McClure panel in shaping the provisions of S. 712. The legislative process, may I say, is not a speedy one, and this bill still faces review by other Senate committees such as yours for provisions which fall under appropriate jurisdiction.

President Bush has endorsed the plebiscite process, as well as statehood for Puerto Rico. Governor Hernandez-Colon has called for the plebiscite, and as a Commonwealth supporter, was given every opportunity to present his options for Commonwealth status in the Senate Energy Committee, as has the Independence spokesman, Ruben Berrios.

We believe that all three status options will be fairly presented in the House of Representatives in an appropriate and timely fashion, and that both the Senate and the House will provide the historic opportunity for self-determination to be decided upon in 1991.

I urge your panel to speedily move on those portions of S. 712 which are under your purview, and to approve the implementation of equal benefit treatment through the Federal Food Stamp program for Puerto Ricans.

Thank you.

I will be glad to answer any questions you may have.

Carlos Romero Barceló

Former Governor of Puerto Rico
San Juan, Puerto Rico

December 26, 1989

Senator Patrick Leahy, Chairman
U.S. Senate Committee on
Agriculture, Nutrition and Forestry
Washington, D.C. 20510-6000

Attn: Cynthia Neuwalder

Dear Senator Leahy:

Enclosed you will find the answers to the questions submitted by Senator Dole regarding the hearings before the Senate Committee on Agriculture, Nutrition, and Forestry on November 9, 1989, on S. 712.

Wishing you very happy Holidays, I remain

Sincerely,

Carlos

Carlos Romero-Barceló

Encls.

G.P.O. Box 4109 San Juan, Puerto Rico 00936

ANSWERS TO QUESTIONS SUBMITTED BY SENATOR BOB DOLE

1. (a) In order for the Government of Puerto Rico to consent to keep the block grant for the Nutrition Assistance Program (NAP) as a demonstration program, the feature of payment by checks instead of food stamps would need to be continued, and the amount allowed to each recipient and the qualification requirements should be the same as for all other recipients in the Nation. It would be difficult if not unconstitutional to have an NAP block grant with different qualifications, higher requirements and lower payments to recipients for U.S. citizens in the state of Puerto Rico.

   (b) If the Nutrition Assistance Program, instead of the food stamps, were to be continued when Puerto Rico becomes a state, the savings in administrative costs would be used for a wage subsidy program to stimulate employment in lieu of welfare. The program would be used to stimulate and encourage welfare recipients to work unless they were mentally or physically impaired, or unable to work because of the need to take care of small children.

   We would certainly expect the wage subsidy for employers that hire NAP qualifying recipients to continue.

2. The main argument that has been used against the current block grant is that it does not provide payments at the same levels as the Food Stamp Program provides food stamps to the needy citizens in the 50 states of the union. Some critics have also said that the payments in checks are diverted for many other uses other than food. This criticism has not been upheld by the experience. On the contrary, sale of food items in Puerto Rico was unaffected by the change from food stamps to checks. There is no evidence that people buy less food with checks than with the food stamps.

   One of the greatest strengths of the check payments is that it eliminates the illegal exchange of food stamps for cash in participating stores which provide cash to recipients in exchange for food stamps at 75% to 80% of the face value of food stamps. This illegal exchange of cash for food stamps which takes place throughout the whole Nation, (in fact, there is a scene in a Richard Pryor movie where a group of persons in a public housing project are playing pocker and using food stamps for money) allows many store owners to substitute the cash sales for illegaly exchanged food stamps, thus pocketing $0.20 to $0.25 per dollar without reporting this revenue as income. The reason behind the ilegal exchange of food stamps for currency throughout the Nation is that recipients have other needs such as clothing or shoes for their children, medicines not covered by health insurance or other health programs. Some people exchange food stamps to buy liquor or even drugs.

Although it is true that the beneficiaries can use the direct cash payments to buy liquor or drugs, at least the recepient is receiving a 100% of what he is supposed to receive and no middle man is benefiting from the illegal exchange of the food stamps. Payment by checks, substantially reduces tax fraud and the illegal enrichment of middle men.

3. a) Switching back to the use of food stamps would create additional administrative burdens and costs in the distribution, the collection and the verification of the food stamps given to recipients and used by them for the purchase of food.

   b) The only positive change that I can see as a result of switching back to the food stamps is the additional funding or benefits that recipients will receive. All qualifying persons would receive assistance at the same level as all their fellow citizens in the 50 states of the Union. I have thought hard to try to identify any other positive changes and I have been unable to identify a single one, other than the increase in benefits.

   c) If the regular food stamp program were to be implemented, no less than one year should be allowed for the adequate preparation to implement the food stamp program. It may even take a year and a half to two years.

4. Introduction of the federal tax code would have definitely positive implications in Puerto Rico's food assistance program. In the first place, income and eligibility verification should be greatly improved for several reasons. One of the reasons why it should be improved is because right now there is no incentive to report wages earned and many wage earners at the lower levels demand that their employers do not include their names in the payroll and that no amount whatsoever be deducted from their salary. The local P.R. tax department and the labor department have so far been unable to do anything about this situation. There are people who recieve welfare assistance, including Nutritional Assistance, who, although they have incomes, do not report any income at all, or have larger incomes than what is reported. Since the federal tax code has a built-in incentive for reporting income at the lower levels of income, inasmuch as a wage earner, thru EITC, can get a credit as high as $910 for filing his income tax return, this will help improve income reporting and reduce the food stamp allotment to many recipients.

   The fact that the federal internal revenue system would be operating in Puerto Rico would stimulate many more people to report their true income because they would be afraid of being prosecuted for federal tax fraud. People in Puerto Rico are not afraid of prosecution for local tax fraud because the local tax department has been very inefficient in prosecuting tax evaders.

Other welfare payments available to the U.S. citizens in Puerto Rico as a state, which are not available now, would also help reduce the economic burden to the food stamp or NAP program.

There is no doubt that income and eligibility verification would be substantially improved by the introduction of the federal tax code in Puerto Rico.

The CHAIRMAN. Thank you very much, Governor.

Both Governor Hernández's and your testimony has been helpful to our committee. I am pleased, Senator Berrios, you are here, and I understand you have Senator Martin with you too. I will get a chance to speak to some of these issues, as did Governor Hernández Colón and Governor Romero-Barcelo, at our luncheon here with Senators Johnston, Bentsen, and Mitchell.

I am grateful for the chance to speak very specifically on the question before the jurisdiction of our committee. In some ways I am happy that we do not have to make the other decisions that you gentleman will be arguing for in Puerto Rico. Ours is just the nutrition one.

But I am glad to have you here. Senator, will you be testifying or Senator Martin?

STATEMENT OF SENATOR REUBEN BERRIOS

Senator BERRIOS. No, Senator. I will be just telling you that Senator Martin will be testifying on behalf of the Puerto Rican Independence Party.

But before that I would like to thank you very much for your invitation, and to tell you that it is evident by now—in this short meeting we have had—that we have a big problem in Puerto Rico. Food stamps or food payments are symptoms of the problem. Almost 60 percent of the Puerto Rican families receive food assistance. That means: what we have does not work.

And I would just like to tell you that at the outset. If it worked, we would not have 60 percent of our people in the Food Assistance Program. We would have much less; or less people every day. We have more every day.

So I would like to advance that proposition; and now Senator Martin.

The CHAIRMAN. Senator Martin, we are delighted to have you here, sir, and please go ahead with your testimony.

STATEMENT OF SENATOR FERNANDO MARTIN, PRESIDENTIAL DELEGATE FOR THE PUERTO RICAN INDEPENDENCE PARTY, PUERTO NUEVO, PR

Senator MARTIN. Thank you, sir.

Mr. Chairman, Senators, I think that at the outset it must be clearly stated that as far as the proposal that has been put forward by the Governor concerning parity to which Governor Romero-Barcelo has expressed his report. And that is also our position.

NOT A QUESTION OF PARITY BUT OF NEED

I do not view it as a question of parity. I view it as strictly a question of need. There is no doubt, and there should be no doubt in anyone's mind that in Puerto Rico's actual situation, more assistance in the food stamp area.

PROBLEM OF NUTRITIONAL ASSISTANCE IN PUERTO RICO

I would, however, take advantage of this opportunity to put forward a wider occupation that I think should be before this commit-

tee. And it consists of the context of the problem of nutritional assistance in Puerto Rico.

Senator Berrios, who said a minute ago, the fact that 60 percent of the Puerto Rican population qualifies for food stamp assistance should be a very worrying fact to those in the Senate who have participation in the development of policy toward Puerto Rico.

Puerto Rico is today vis-a-vis the rest of the United States in the same position that it was 40 years ago. If Puerto Rico's median income is half of that of the poorest State, that is exactly what it was 40 years ago, half the median income of the poorest State.

So, in relative terms, the stagnation of Puerto Rico vis-a-vis the rest of the United States has been absolute. And the fact that 60 percent of the population qualifies for food stamps, I say, should be cause for great worry and for introspection as to what should be done concerning the Puerto Rico problem in a larger sense.

It should come as no surprise to members of this committee that today, Puerto Rico has probably the lowest labor participation rate in the world. Only 43 percent of the Puerto Rican population is an active part of the labor market as opposed to over 60 percent of the United States. If to that you add the existence of an unemployment rate that hovers around the 17 and 18 percent mark, and you take account of the fact that most of this employment is of a chronic and structural nature, one begins to perceive the dimension Puerto Rico, as an underdeveloped and stagnated economy and society.

THERE IS ALSO A PRIMARY OBLIGATION TO DETERMINE THE CAUSES OF NEED, THE CAUSES OF UNDERDEVELOPMENT

This is not to say that we do not recognize as of primary value the obligation of any civilized society to provide food for its hungry. But I think there is also a primary obligation to determine the causes of need, the causes of underdevelopment, and to direct the general thrust of governmental efforts, not merely to what would amount to our perpetuation of the problem but, instead, to try to take Puerto Rico out from this syndrome of dependency. And that has converted Puerto Rico to the equivalent of a tropical ghetto or of a tropical depressed Appalachia in the rural areas.

There is nothing in the perspectives before Puerto Rico today that should make anybody, no matter how optimistic we believe that the continuation of the actual state of affairs, be it under the actual colonial status, or be it under statehood, will signify any change in the trends that I have described.

The more that Puerto Rico becomes integrated into the United States, the more that Puerto Rico becomes part of the uniformity of United States rules and regulations.

Paradoxically the United States being the richest country in the world, that simply condemns Puerto Rico to be forever the poorest part of the United States. And it condemns generations of Puerto Rican families to a life completely disconnected from the world of work and from the world of productive employment.

There seems to be under the status or under statehood only the promise of more funds for more dependence. But there does not seem to be in the works any solution that will turn Puerto Rico from a society of dependents to a society of productive labor.

And that is why we of the Puerto Rican Independence Party are absolutely convinced that only a radical transformation of this situation will permit the possibility of Puerto Rico being a society for each new generation can aspire to productive labor and to work. Although this presents all sorts of transitional problems, they should not fill us with dismay or with despair but, instead, with hope.

I know that the jurisdiction of this committee is not the general jurisdiction beyond the specific problem of nutritional assistance. But I think it of the utmost importance that the Senators, the members of this committee have a feeling for this context.

CHARITY IS COMMENDABLE, BUT JUSTICE IS BETTER

Charity is commendable, but justice is better. Charity is commendable, feeding the poor is commendable, but a program that is not part of a larger program to reduce dependency in an effective way I think will in the long run the true interest of the Puerto Rican people and also the true interest of the United States.

Thank you very much, Mr. Chairman.

[The question for Senator Martin submitted by Senator Bob Dole and the response follows:]

QUESTION FOR SENATOR MARTIN SUBMITTED BY SENATOR BOB DOLE

Question. Under the independence option, S. 712 as now drafted provides for Federal assistance to Puerto Rico to be consolidated into an aid package that would be paid to Puerto Rico for several years after independence is proclaimed. If Puerto Rico opts for independence, would you continue the Nutrition Assistance Program during and beyond this transition period? What, if any changes, would you make in the program?

[Letter from Fernando Martin in response to Senator Dole's question follows:]

ESTADO LIBRE ASOCIADO DE PUERTO RICO,
SENADO CAPITOLIO, SAN JUAN, PUERTO RICO 00901,
January 10, 1990.

Committee on Agriculture, Nutrition, and Forestry, SR-328-A, Washington, DC.
ATTN: Cynthia Neuwalder.

DEAR MS. NEUWALDER: I am writing in response to Senator Leahy's letter of December 13, 1989, in which he conveys a question submitted by Senator Dole.

If Puerto Rico were to opt for independence under the terms of S. 712 the decision as to how to use the transitional grant contemplated in the bill would be entirely within the discretion of the elected authorities of the Republic of Puerto Rico.

I cannot, evidently, speak in their name or make any commitment that could be interpreted as in any way restricting—a priori—what such a decision should be.

It seems reasonable to assume however that any foreseeable government of the Republic of Puerto Rico would be committed to maintaining an adequate social safety net while at the same time directing as many resources as possible to the financing of an economic development program that could incorporate into the labor force the hundreds of thousands of Puerto Ricans who are excluded today from the labor market, and whose dependence on the present Nutritional Assistance Program is so great.

It is the premise of the independence option that all such decisions will be in the exclusive realm of a sovereign Puerto Rico and that the consolidation of transitional economic assistance into a single package is made precisely in order to enable the nascent Republic to order its social and economic priorities as it best sees fit.

Cordially yours,

FERNANDO MARTIN.

The CHAIRMAN. Thank you very much, Senator, and I appreciate both of you being here and the time you have taken.

I understand the last witness, before we go to questions, will be Scott Dunn, the Acting Administrator of the Food and Nutrition Service, Department of Agriculture. Mr. Dunn if you would please give your testimony, and then we will go to questions.

STATEMENT OF G. SCOTT DUNN, ACTING ADMINISTRATOR, FOOD AND NUTRITION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC

Mr. DUNN. Thank you very much, Mr. Chairman.

INTRODUCTION

Mr. Chairman, members of the committee, it is a pleasure to be here this morning to talk about S. 712 to provide for a referendum on the political status of Puerto Rico.

The U.S. Department of Agriculture supports the right of the people of Puerto Rico to choose their political status for themselves, whether it be permanent union with the United States, close association as an enhanced Commonwealth, or friendly neighbor as an independent nation.

OVERVIEW

Just taking a brief look at the background of the current Nutrition Assistance Program, it was first authorized in 1981 by the Omnibus Budget Reconciliation Act (Public Law 97-35), and replaced the Food Stamp Program which had been in operation in the Commonwealth since the middle of 1974.

The legislation to create the Nutrition Assistance Program, or NAP, developed out of recognition that Puerto Rico's Food Stamp Program had grown rapidly and that alternative approaches might better serve the Commonwealth. More than 1.8 million people—or about 56 percent of the Commonwealth's population—received food stamps in 1981, with food stamp benefits comprising 8 to 10 percent of the Commonwealth's income. Eight percent of the total Federal program expenditures under the Food Stamp Act were spent in the Commonwealth—more than in any of the 50 States.

There was concern that the Food Stamp Program could be having some unexpected and unintended outcomes in Puerto Rico. In response to this, Congress created the Nutrition Assistance Program to permit the Commonwealth of Puerto Rico to develop its own Food Assistance Program—giving the Commonwealth unparalleled flexibility to create a program specifically tailored to the needs of the low-income residents of Puerto Rico.

The new Nutrition Assistance Program designed by officials in the Commonwealth, differed from the Puerto Rico Food Stamp Program in several important aspects: income eligibility limits and benefits were tightened to bring program costs into line with the limited funding of the block grant; cash was chosen as the form of benefits, rather than coupons; and, Puerto Rico was excused from many of the administrative aspects of the Food Stamp Program.

Each of the political options proposed in S. 712—statehood, independence, or enhanced Commonwealth—has significant programmatic or budgetary implications.

STATEHOOD

Beginning with statehood, upon admission as a State, Puerto Rico could opt to participate in the Food Stamp Program or choose to continue to receive a Federal block grant through September 1997. Continuation of the block grant would hinge on an agreement by both the Secretary of Agriculture and the Governor of Puerto Rico. As such, it is not clear what the terms of the grant would be. In other words, whether Puerto Rico could continue to have the design flexibility it now enjoys, and whether it might be required to share in any fiscal costs.

FOCUS THE DISCUSSION THEREFORE ON THE FOOD STAMP PROGRAM

I would like to focus the discussion therefore on the Food Stamp Program.

Reintroducing food stamps would have significant programmatic implications. We would expect Puerto Rico to operate the Food Stamp Program under the same set of rules that applies in every other State in the country. Benefits would be provided in coupons instead of cash. Eligibility standards would conform with those in the rest of the country. Administrative requirements would be tightened, and Puerto Rico would be subject to the same Federal oversight as the rest of the 53 State agencies that operate the Food Stamp Program.

There are several factors that make precise estimation of the effect of S. 712 on costs difficult. For example, the economic situation in Puerto Rico could change and, therefore, increase or decrease the number of persons eligible to participate in the program. Moreover, the legislation is also silent on the issue of any special adjustments to benefits, deductions and/or income limits to account for differences in the cost of living in Puerto Rico.

However, we would expect to see sizable increases in program participation under the Food Stamp Program. Financial eligibility limits could be double those under NAP, rising to 130 percent of the Federal poverty guidelines and approaching the average family income in the Commonwealth. And, accordingly, participation would grow significantly perhaps by as much as one-third to the pre-1982 levels when Puerto Rico was in the Food Stamp Program, adding about 400,000 persons to the caseload.

The level of maximum benefits set would also affect costs substantially. For example, if a new Thrifty Food Plan were established that resembled the pre-NAP plan, then Federal costs could increase by about $535 million. At the other end of the scale, if a Thrifty Food Plan would develop that was similar to, say, Alaska or Hawaii's which is at the upper end of the scale, then costs could increase by about $955 million.

From the Federal perspective, Puerto Rico's participation in the Food Stamp Program rather than a block grant program would bring on new administrative involvement related to printing and

redeeming coupons and oversight of food stores and State agency operations.

Admission as a State has less impact on the other USDA food assistance programs, because those other programs operate in Puerto Rico just as they do in the rest of the country here.

INDEPENDENCE

Regarding independence, all Federal programs would continue to apply in Puerto Rico until the end of the current fiscal year. NAP, all other food assistance programs, and a number of other Federal programs would be consolidated into a single grant and would be paid to Puerto Rico for 9 years. Given the nature of a grant, there would not necessarily be any specific requirements that the fund be used to operate the program at the same level before the grant took effect.

COMMONWEALTH STATUS

Under Commonwealth status certain Federal grant-in-aid programs may be consolidated with others. However, it is unclear whether NAP would be covered by this provision which excepts direct payments to classes of individuals from the consolidation authority.

It is also possible that there are other factors that could come in as well concerning the consolidation of the grant status that could be problematic for the administration of USDA's food assistance programs.

That concludes my prepared comments, and I would be happy to answer any questions that you or Senator Lugar may have.

[The prepared statement of Mr. Dunn follows:]

STATEMENT OF G. SCOTT DUNN, ACTING ADMINISTRATOR, FOOD AND NUTRITION SERVICE U.S. DEPARTMENT OF AGRICULTURE BEFORE THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. Chairman, Members of the Committee, the U.S. Department of Agriculture (USDA) strongly supports the right of the people of Puerto Rico to choose their political status for themselves, whether it be permanent union with the United States, close association as an enhanced commonwealth, or friendly neighbor as an independent nation. It is, therefore, a pleasure for me to be here today to discuss S. 712, a bill "To provide for a referendum on the political status of Puerto Rico." In particular, I will focus on ramifications for the Food Stamp Program under the proposed bill.

Although the timetables for implementation under the bill are different for each of the options for Puerto Rico, for the purpose of our preliminary analysis we have used the President's Fiscal Year 1990 budget estimates as the base, and we have assumed that the budget impact would be experienced in full in Fiscal Year 1992.

I would like to begin with a brief overview of the Nutrition Assistance Program (NAP) in Puerto Rico.

The Nutrition Assistance Program was first authorized in 1981 by the Omnibus Budget Reconciliation Act (Public Law 97-35), and replaced the Food Stamp Program which had been in operation in the Commonwealth since the middle of 1974. Prior to the Food Stamp Program, the USDA had administered the Family Food Distribution Program, a program that distributed agricultural commodities directly to low-income residents of Puerto Rico.

The legislation to create the Nutrition Assistance Program developed out of recognition that Puerto Rico's food stamp program had grown rapidly and that alternative approaches might better serve the Commonwealth. More than 1.8 million people - 56 percent of the Commonwealth's population - received food stamps in 1981, with food stamp benefits comprising 8 to 10 percent of the Commonwealth's income. Eight percent of the total Federal program expenditures under the Food Stamp Act were spent in the Commonwealth - more than in any of the fifty states.

Congress was concerned about how the Food Stamp Program had changed the economy of Puerto Rico. Congressional Committees heard testimony that economic dependency on food stamps was increasing, while fewer people were working in agriculture, less land was used for farming, and fewer crops were produced.

There was clear concern that the Food Stamp Program could be having some unexpected and unintended outcomes in Puerto Rico. In response to this, Congress created the Nutrition Assistance Program to permit the Commonwealth of Puerto Rico to develop its own food assistance program - giving the Commonwealth unparalleled flexibility to create a program specifically tailored to the needs of the low-income residents of Puerto Rico. To fund the new program, Congress initially authorized a grant of $825 million per year.

The new Nutrition Assistance Program designed by officials in Puerto Rico differed from the Puerto Rico Food Stamp Program in several important aspects: income eligibility limits and benefits were tightened to bring program costs into line with the limited funding of the block grant; cash was chosen as the form of benefits, rather than coupons; and, Puerto Rico was excused from many of the administrative aspects of the Food Stamp Program, such as detailed federal regulations, various reporting requirements, and some accountability requirements (e.g. quality control). In essence, Puerto Rico was granted authority to design its own food assistance program from scratch. It was granted the additional flexibility to direct a portion of

its grant money to projects that would stimulate or improve agriculture, food production or food distribution to achieve the goal of greater self-sufficiency.

As I mentioned earlier, we have completed a preliminary review of the effects of the options envisioned by S. 712 on food assistance programs in Puerto Rico. Each of the political options proposed--statehood, independence, or enhanced commonwealth--has significant programmatic or budgetary implications. I would like to outline those implications for you now.

Upon admission as a State, Puerto Rico could opt to participate in the Food Stamp Program or choose to continue to receive a federal block grant through September 1997. Continuation of the block grant would hinge on agreement by both the Secretary of Agriculture and the Governor of Puerto Rico. As such, it is not clear what the terms of the grant would be (i.e., whether Puerto Rico would continue to have the program design flexibility it now has and whether it might be required to share costs).

Consequently, I will focus my discussion on the implications of returning to the Food Stamp Program.

The reintroduction of the Food Stamp Program would have significant programmatic implications. We would expect Puerto Rico to operate the Food Stamp Program under the same set of rules applied to all other States. Benefits would be provided in coupons instead of cash. Eligibility standards would conform with those in the rest of the country. Administrative require-ments would be tightened, and Puerto Rico would be subject to the same Federal oversight as the rest of the 53 state agencies. For example, Puerto Rico would be subject to quality control reviews and the provision in the Food Stamp Act requiring special audits by USDA's Inspector General whenever a State's food stamp case-load exceeds 60 percent of its population.

There are several factors that make precise estimation of the effect of S.712 on costs difficult. For example, the economic situation in Puerto Rico could change, and thus, increase or decrease the number of those eligible for benefits. Puerto Rico could implement programs newly available to them that would have a large impact on food stamp costs. Moreover, the legislation is silent on the issue of any special adjustments to benefits, deductions and/or income limits to account for differences in the cost of living in Puerto Rico.

However, we would expect to see sizable increases in program participation under the Food Stamp Program. Financial eligibility limits could be double those under the NAP, rising to 130 percent of the Federal poverty guidelines and approaching the average family income in the Commonwealth. Participation would grow significally. For example, it could grow by almost one-third to pre-1982 levels (1.8 million persons per month), adding approximately 400,000 persons to the caseload.

The level of maximum benefits set would also affect costs substantially. For example, if a new Thrifty Food Plan were set that resembled the pre-NAP plan, then Federal costs could increase by about $535 million. On the other hand, if the benefits were set higher, and here I will use the example of Hawaii's benefit levels, costs would increase by $955 million.

From the Federal perspective, Puerto Rico's participation in the Food Stamp Program rather than a block grant program would bring on new administrative involvement related to printing and redeeming coupons and oversight of food stores and State agency operations.

Admission as a State has less impact on the other food assistance programs. Other programs like the child nutrition programs, the various commodity programs, and the Special Supplemental Food Program for Women, Infants and Children (WIC) already operate in Puerto Rico the same way they do in the States.

Upon independence, all federal programs would continue to apply in Puerto Rico until the end of the current fiscal year. NAP, all the other food assistance programs,

and a number of other programs including Medicare and the Aid to Families with Dependent Children Program would be consolidated into a single grant and would be paid to Puerto Rico for nine years. Given the nature of a grant, there are no specific requirements that Puerto Rico use the funds to continue operation of food assistance programs at the level prior to independence.

Under commonwealth status certain federal grant-in-aid programs may be consolidated with others. However, it is unclear whether NAP would be covered by this provision which excepts direct payments to classes of individuals from the consolidation authority. I would like to point out that enhanced commonwealth status permits the Governor of Puerto Rico to dispute the applicability of Federal regulations after they have been published as final rules. This provision could be problematic for the administration of USDA's food assistance programs.

Mr. Chairman, that concludes my testimony. I would be pleased to respond to any questions.

The CHAIRMAN. Thank you, Mr. Dunn. Let me move on to questions.

Governor Hernández Colón, you stated in your prepared testimony, as I recall, that food costs are higher in Puerto Rico on the average than here in the United States, and I think you printed the exact percentage. I think it was something like 32.7 percent higher than in the Washington, DC area.

Governor HERNÁNDEZ COLÓN. But on the average it would be 12 percent.

The CHAIRMAN. On the average 12 percent. So food costs would be higher for low-income families in Puerto Rico?

Governor HERNÁNDEZ COLÓN. Yes.

The CHAIRMAN. Has Puerto Rico done studies on this, do you know offhand? Specific studies on the food costs as compared to other——

Governor HERNÁNDEZ COLÓN. Yes, we have.

The CHAIRMAN. Some time, if your office could, or the Congressman's office, either one, could give me some copies of that so we could include it for the record, I would appreciate it.

Governor HERNÁNDEZ COLÓN. We would be delighted to.

["A Study on a Comparison of Household Expenditures on Food in Puerto Rico and the United States," prepared by Puerto Rico Management and Economic Consultants, Inc., November 1989, was subsequently supplied for the record and follows:] [1]

[1] The following articles are retained in the committee file:
Article from *The San Juan Star* dated August 28, 1986, entitled "Seasonal coffee harvesters won't lose any PAN benefits".
Article from *El Vocero* dated August 29, 1986, entitled "Recogerán café sin perder PAN".
Article from *El Mundo* dated August 28, 1989, entitled "Podrán recoger café y además recibir PAN".

A STUDY ON A COMPARISON OF HOUSEHOLD EXPENDITURES ON FOOD IN PUERTO RICO AND THE UNITED STATES

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I. INTRODUCTION AND SUMMARY OF CONCLUSIONS

INTRODUCTION

The Puerto Rican economy and the U.S. economy have their individualities. However, they operate within a common market in which people, goods and capital move freely. There are no restrictions on the movement of people between the two entities. Capital can be moved around within a few seconds. Goods are imported and exported by air and sea as if the movement is within the fifty states.

Because there is a common market, the economy of Puerto Rico produces where it has a comparative economic advantage. It produces goods which are not bulky and have a high value added so that the goods can be mass produced and sold in the U.S. market. It may be noted that 85 percent of Puerto Rico's manufactured goods are exported to the U.S. market.

Because of the fact that Puerto Rico's resources are devoted toward production of goods which are exported, Puerto Rico must import goods, food and fibers to meet its needs for durable and non-durable products. Puerto Rico's staple foods are red beans and rice, and these two products are imported from California to meet a predominant part of local demand. The shelves of supermarkets, colmados, cafeterias, plaza markets and specialized food stores of Puerto Rico provide a convincing testimony that what Puerto Rico consumes, it does not produce.

The imported foods have to be transported by oceans, loaded and unloaded from ships, ground transported, warehoused, etc. All these steps are costly.

It takes a considerable time in transportation. Consequently, a large amount of inventories must be maintained. The inventories are financed by financial institutions and in recent years interest rates in relation to other factor payments have sharply increased. All these costs add up to make the cost of foods in Puerto Rico higher than elsewhere.

Puerto Rico's Department of Social Services is provided a predetermined block grant by the U.S. Congress, to pay for the Food Stamp Program in Puerto Rico. This block grant has lower purchasing power than in most of the other political entities under the U.S. flag.

The Department of Social Services asked the Puerto Rico Management and Economic Consultants, Inc. to determine as to what is the cost of food for a family in Puerto Rico as compared to the United States. Consistent with the assignment, we have prepared the Study. The following section of the Study provide a brief summary of the conclusions. For detailed analysis, the reader is advised to study sections II, III, and IV.

SUMMARY OF CONCLUSIONS

1. The principal conclusion of this Study is that the weekly food costs of a consumer unit in Puerto Rico in 1989 amount to $75.87, as compared to $67.62 in the United States. A consumer unit is defined as a household which includes all the persons who occupy a housing unit. The occupants of a housing unit may be a single family, one person living alone, or any other group of related or unrelated persons who share living arrangements.

2. Five years earlier, that is in 1984, the weekly food cost of a consumer unit was $59.62 in Puerto Rico, as compared to $57.13 in the United States.

3. The difference between the weekly food costs of Puerto Rico and the U.S. was 4.4 percent in 1984 and this difference has increased to 12.2 percent, which implies that food cost differential between Puerto Rico and the U.S. has increased. It also means that a consumer unit is required to pay $100 for food in the U.S. and a consumer unit in Puerto Rico is required to pay $112.20.

4. It should be emphasized that the food costs pertain to a consumer unit. Between Puerto Rico and the U.S., the size of a consumer unit can be different. There can be differences in the quality and quantity of of food consumed.

5. The differences in the cost of living between Puerto Rico and the U.S. are recognized by the Federal Government which pays at present to its employees in Puerto Rico a cost of living differential of 10 percent. It should be noted that the cost of living allowance includes the payment for differencials in food prices in Puerto Rico and the U.S. 1/

1/ Please see PM Bulletin 591-33, dated April 16,1986, provided in the appendix of the Study.

TABLE 1 WEEKLY U.S. AND PUERTO RICO HOUSEHOLD EXPENDITURES ON FOOD

(In Dollars)

	United States (1)	Puerto Rico (2)	Difference (2) - (1) (3)	Percent (4)
1989	$67.62	$75.87	$8.25	12.2%
1988	64.83	72.58	7.75	12.0
1987	62.16	71.92	9.76	15.7
1986	59.60	67.33	7.73	13.0
1985	59.92	64.90	4.98	8.3
1984	57.13	59.62	2.49	4.4

Source: U.S. Department of Labor and the Consultants.

II. AVERAGE HOUSEHOLD FOOD EXPENDITURES IN PUERTO RICO

The food expenditures analysis presented in this chapter deals with an average household. A household includes all the persons who occupy a housing unit. A housing unit may be occupied by a family of two or more persons, or a household may be occupied by a single person.

It is estimated that weekly expenditures on food by a household or consumer unit amounted to $75.87 in 1989, $72.58 in 1988, $71.92 in 1987, and $67.33 in 1986. During the period of 1984-1989, average household food expenditures in Puerto Rico increased from $59.62 in 1984 to $75.87 in 1989, representing a total growth of 27.3 percent, at an annual average rate of 4.9 percent.

It should be pointed out that a 4.9 percent increment in food expenditure was the result of an increase in food prices at an annual rate of 2.6 percent, as well as by improvements in the quality and quantity of food consumed by an average household.

The data on average household food expenditures in Puerto Rico have been developed by analyzing a series of demographic and macro-economic variables such as the size of population, size of consumer units, expenditures on food, expenditures on food by non-residents (tourists) etc. Each one of these variables is briefly analyzed.

POPULATION

For the purposes of this study, the population of Puerto Rico is one of the basic variables. In 1989, the population of Puerto Rico is estimated at 3,306,000, as compared to 3,197,000 in 1979, representing a growth of 3.4 percent over a period of ten years.

TABLE 2 AVERAGE FAMILY FOOD EXPENDITURES IN P.R. IN 1979-89

	1979	1984	1985	1986	1987	1988	1989
Population (000)	3,197	3,268	3,280	3,282	3,286	3,297	3,306
Size of Consumer Unit	3.67	3.5	3.5	3.5	3.4	3.4	3.4
Number of Consumer Units in Puerto Rico (000)	871	934	937	938	938	970	972
Expenditures on Food: Total (Millions of Dollars)	2,420	3,087	3,364	3,492	3,758	3,951	4,154
Less: Expenditures on Food by Non-Residents (Millions of $)	157	191	202	208	250	290	319
Expenditures on Food by Residents of Puerto Rico (Millions of $)	2,263	2,896	3,162	3,284	3,508	3,661	3,835
Annual Expenditures on Food by a Consumer Unit (In Dollars)	2,598	3,101	3,375	3,501	3,740	3,774	3,945
Weekly Expenditures on Food by a Consumer Unit (In Dollars)	49.96	59.62	64.90	67.33	71.92	72.58	75.87

It should be noted that the population figure for 1979 was obtained from the Census of Population, and the population figures pertaining to the decade of the 1980's have been obtained from the Puerto Rico Planning Board, an agency responsible for the compilation of data and other economic statistics.

SIZE OF HOUSEHOLD

Under the Census of 1979, a household consisted of 3.67 persons. The data on the size of a consumer unit were obtained from the 1980 Census: General Social and Economic Characteristics, Table 44.

A number of surveys have been conducted in regard to the demographic developments in Puerto Rico. Consistently, the surveys have indicated that the size of a household is declining. It is estimated that the size of a household was 3.5 persons in 1984, and 3.4 persons in 1989.

NUMBER OF CONSUMER UNITS

The data on the number of consumer units have been obtained by using the variables population and the size of a consumer unit. According to the Census of Population there were 871,000 households in Puerto Rico in 1979. By 1986, the number of households had increased to 938,000. In 1989, the number of households further increased to 972,000.

EXPENDITURES ON FOOD

The Puerto Rico Planning Board compiles the data on personal consumption expenditures in Puerto Rico. The data on personal consumption expenditures include the expenditures on food, liquor, clothing, housing, medical care, transportation, recreation and education. Among all these items of personal expenditures, the

item of food is the most important. In 1989, the food expenditures constituted almost 21 percent of the total consumption expenditures in Puerto Rico, by residents and non-residents. The non-residents spent $319 million and the residents of Puerto Rico spent $3,835 million. In 1984, total expenditures on food amounted to $3,087 million, of which non-residents spent $191 million and the residents spent $2,896 million. It should be noted that the data on expenditures on food by non-resident have been developed with an assumption that the expenditures in Puerto Rico to the extent of 27.3 percent are destined for food. It may be noted that in 1989, the tourist expenditures have been estimated at $1,170 million.

ANNUAL EXPENDITURES ON FOOD, BY HOUSEHOLDS

Annual expenditures on food by households have been developed by dividing the food expenditures of the residents by the number of households in Puerto Rico. It is estimated that an average household had $3,945 of expenditure on food, as compared to $3,101 in 1984.

WEEKLY EXPENDITURES ON FOOD BY HOUSEHOLD

The weekly expenditure on food by a household be been obtained by dividing the annual expenditures by 52. As shown in Table 2, the weekly expenditure on food by household amounted to $75.80 in 1989, and $59.52 in 1984.

III. AVERAGE HOUSEHOLD FOOD EXPENDITURES IN THE UNITED STATES

INTRODUCTION

In Puerto Rico, a study on consumer expenditures was conducted in 1978 and includes the data for 1977. A brief summary of the findings of the 1977 study on Puerto Rico is presented in the next Chapter. Since 1977, Puerto Rico has not conducted any study on consumer expenditures.

On the other hand, in the U.S. each year a consumer expenditure survey is conducted. For the U.S., the Consumer Expenditure Survey (CES) program was begun in late 1979. The principal objective of the survey is to collect current consumer expenditure data which provide information on the buying habits of American consumers. The data are used for future revisions of the Consumer Price Index (CPI).

The survey conducted by the Bureau of the Census for the Bureau of Labor Statistics, consists of two components: (1) An interview panel survey in which the expenditures of consumer units are obtained in five interviews conducted every 3 months; and (2) a diary or record keeping survey completed by participating households for two consecutive 1-week periods.

Each component of the survey queries an independent sample of consumer units representative of the U.S. urban population. Over 52 weeks of the year, 5,000 consumer units are sampled for the diary survey. Each consumer unit keeps a diary for two 1-week periods yielding approximately 10,000 diaries a year. The interview sample is selected on a rotating panel basis, targeted at 5,000 consumer units per quarter. Data are collected in 85 urban areas of the country that are representative of the U.S. urban population.

The Diary survey is designed to obtain expenditures on small, frequently purchased items which are normally difficult for responders to recall. Detailed records of expenses are kept for food and beverages, both at home and in eating places, tobacco, housekeeping supplies, nonprescription drugs, and personal care products and services.

The interview survey is designed to obtain data on the type of expenditures which respondents can be expected to recall for a period of 3 months or longer. In general, these include relatively large expenditures, such as those for property, automobiles, and major appliances, or expenditures which occur on a fairly regular basis, such as rent, utilities, or insurance premiums. Including "global estimates" for food, it is estimated that about 95 percent of expenditures are covered in the interview. Excluded are nonprescription drugs, household supplies, and personal care items.

HOUSEHOLD EXPENDITURES UPTO 1986

From the annual CES conducted for the U.S., the following data could be obtained: (1) That there were 93,741,000 households in the U.S. in 1986, (2) that there were 2.6 persons per household, (3) that each household had 1.4 earners, (4) that each household had two vehicles (5) that there were 0.7 children under the age of 18 and 0.3 persons 65 and over in a household. An average household has expenditures of $59.60 per week in 1986, as compared to $57.13 in 1984. In 1986, an average household was spending $37.73 on food at home and $21.87 on food away from home. The details are shown in Table 3. In 1986, an average household was spending $3,363 per year on food. The detailes are shown in Table 4.

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TABLE 3 U.S. AVERAGE WEEKLY EXPENDITURES OF ALL CONSUMER UNITS

(In Dollars)

	1980	1984	1985	1986	Average Annual Percent Change 1980-84	1984-85	1985-86
Food, total	48.39	57.13	59.92	59.60	4.2	4.9	-.5
Food at home, total	33.45	37.31	38.60	37.73	2.8	3.5	-2.3
Cereal and bakery products	4.27	5.05	5.44	5.29	4.3	7.7	-2.8
Meats, poultry, fish and eggs	11.58	11.26	11.14	10.81	-.7	-1.1	-3.0
Dairy products	4.47	4.87	5.12	4.82	2.2	5.1	-5.9
Fuits and vegetables	4.92	6.03	6.19	6.14	5.2	2.7	-.8
Other food at home	8.20	10.11	10.71	10.65	5.4	5.9	-.6
Food away from home	14.94	19.81	21.32	21.87	7.3	7.6	2.6
Alcoholic Beverages	4.97	4.93	5.52	4.84	-.2	12.0	-12.3
Tobacco products and smoking supplies	2.79	3.48	3.78	3.60	5.7	8.6	-4.8
Personal care products and services	3.74	4.54	4.94	5.01	5.0	8.8	1.4
Nonprescription drugs and supplies	1.50	1.95	2.49	2.31	6.8	27.7	-7.2
Housekeeping supplies	4.04	5.90	6.24	6.07	7.9	5.8	-2.7

Source: U.S. Bureau of Labor Statistics, Consumer Expenditure Surve. Results from 1986.

TABLE 4 U.S. AVERAGE ANNUAL EXPENDITURES OF ALL CONSUMER UNITS: 1980 TO 1986

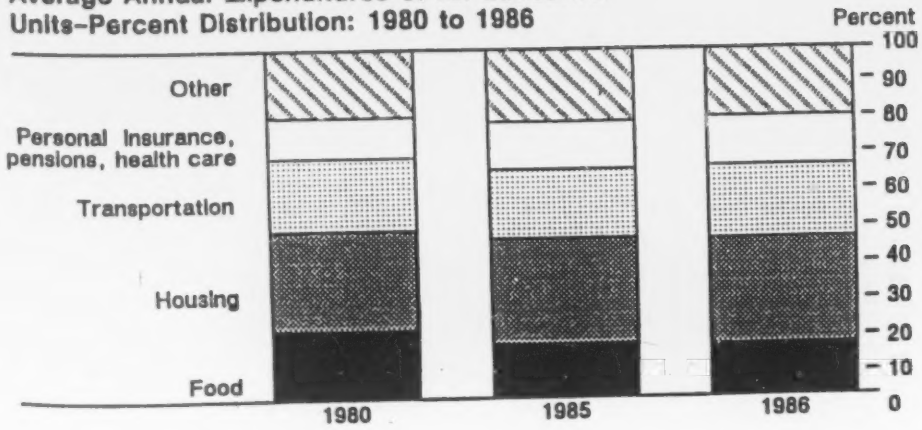
(In Dollars)

ITEM	1980	1984	1985	1986	Average Annual Percent Change		
					1980-84	1984-85	1985-86
Total Expenditures	16,184	20,910	22,217	22,710	6.6	6.3	2.2
Food	3,116	3,280	3,394	3,363	1.3	3.5	-.9
Housing	4,643	6,284	6,687	6,888	7.9	6.4	3.0
Shelter	2,530	3,494	3,840	3,986	8.4	9.9	3.8
Utilities, Fuel and Public Services	1,178	1,638	1,648	1,646	8.6	.6	-.1
House Furnishings and Operations	934	1,152	1,200	1,256	5.4	4.2	4.7
Apparel and Services	846	1,107	1,161	1,149	7.0	4.9	-1.0
Transportation	3,409	4,264	4,555	4,815	5.8	6.8	5.7
Vehicles	1,181	1,813	2,043	2,340	11.3	12.7	14.5
Gas and Motor Oil	1,202	1,058	1,035	916	-2.9	-2.2	-11.5
Other Transportation	1,027	1,392	1,478	1,559	7.9	6.2	5.5
Health Care	728	981	1,037	1,062	7.8	5.7	2.4
Personal Insurance and Pensions	1,161	1,897	2,016	2,129	13.1	6.3	5.6
All Other	2,282	3,098	3,368	3,304	8.0	8.7	-1.9

Source: U.S. Bureau of Labor Statistics, Consumer Expenditure Survey.

CHART 1

Average Annual Expenditures of All Consumer Units–Percent Distribution: 1980 to 1986



HOUSEHOLD EXPENDITURES, 1985-89

During the period of 1980-86, weekly household expenditures increased from $48.39 to $59.60, reflecting an increase of 23.2 percent, at an annual average rate of 4.3 percent. During the same period, the number of households in the U.S. increased from 82,052,000 to 93,741,000.

It is believed that the weekly food expenditures of households will continue to increase for the foreseeable future. It may be noted that the overall food expenditures in the U.S. increased by 18 percent during the period of 1986-89, which is just about equal to the increase in prices of foods and feeds which increased by 17.9 percent.

If it is assumed that during the period of 1986-89, the weekly food expenditures of the U.S. households increased at an annual rate of 4.3 percent, consistent with the experience of 1980-86, it will be seen that the weekly household food expenditures are estimated to amount to $67.62 in 1989, as compared to $59.60 in 1986 and $48.39 in 1980. The details are shown in Table 5 .

TABLE 5 WEEKLY U.S. HOUSEHOLD EXPENDITURES ON FOOD
(In Dollars)

1989	67.62
1988	64.83
1987	62.16
1986	59.60
1985	59.92
1984	57.13
1980	48.39

Source: U.S. Department of Labor and the Consultants.

IV. FOOD EXPENDITURES IN PUERTO RICO IN 1977

THE SURVEY DESIGN

Puerto Rico Department of Labor and Human Resources conducted a study, namely, Income and Expenditures of the Families, Puerto Rico, 1977. Although the study was conducted in 1977, it was published in 1981 by the Department.

The Study has four volumes. One of these volumes is titled, Expenditures by Families. It is this volume which is of particular interest for this Project.

The basic information for the Department of Labor Study was obtained through special format of the questionnaires by means of personal interviews conducted in the households selected in the sample. The interviews were done by a group of 152 interviewers specially selected and trained for this work. The survey was conducted during mid-year 1978, but the questions on income and expenditures of the families referred to calendar year 1977.

The sample design for this study was a stratified cluster probability sample using a multistage procedure for selection of final sampling unit in the selected household. The strata in the sample frame consisted of the seven geographical regions in which the Island's municipalities were grouped according to the regions established by the Department of Labor. Within each of the municipalities in the geographic regions, the urban and rural areas were seperated. Within each zone then, the households were grouped and identified as residential areas, or segments, (Primary Sampling Units - PSU's) according to known or measurable specific criteria, such as city blocks, barrios, suburban housing developments, public housing projects, condominiums and slums. Each segment

was well defined by its official boundaries as assigned by the governmental agency, In total, the entire Island's households were thus grouped in about 1900 PSU's.

Each segment was then classified according to three broad socio-economic levels (high, medium and low) of the neighborhood, based on such factors as the property value of the households in the segment, the lot size, occupational group of residents and others. The urban segments were classified into high, medium and low levels while the rural ones into medium and low. Thus, in total, there were 5 socio-economic strata within each of the 7 regions, amounting to a total of 35 strata. From each stratum, a sample of residential areas was drawn by using a systematic random sample in proportion to the size of the areas.

The sample size within the socio-economic levels was decided in order to achieve a reasonable reliability for the estimates. Within each level, however, the sample size was proportional to urban-rural zone and geographic regions. The total sample size was 2,018 completed interviews distributed as follows: High Urban 302, Medium Urban 662, Low Urban 396, Medium Rural 148, Low Rural 509.

DEFINITION USED IN THE 1977 STUDY

The study developed the data on total expenditures, consumption expenditures, per capita expenditures, food expenditures, and expenditures on housing, transportation, medical care, personal care, recreation, reading and education. For the relevant concepts, the Study provided the following definition:

Total expenditures: includes consumption expenditures plus personal insurance, gifts and contributions.

Average expenditures: The average expenditure per item is based on all families in each group, whether or not they reported disbursements for any particular item. Average was calculated by dividing the aggregate amount of expenditures reported by families in each group by the total number of families in the group.

Per capita expenditures: Computed by dividing the average family expenditures by the average family size.

Food: Includes meals prepared at home, meals at work, at school and in restaurants, as well as meals delivered at home. Includes also ice cream, refreshments, sodas and candy.

The Study defines other types of family expenditures. However, such expenditures are not considered relevant for this Project.

FINDINGS OF THE 1977 STUDY ON RELATIVE EXPENDITURES

Average expenditures per family in Puerto Rico during calendar year 1977 amounted to $8,402 1/. The average family size was 3.4 persons and the average income per person was $2,471. Ninety-five point one percent of the expenditures ($7,990) were for consumption while the remaining 4.9 percent ($412) corresponded to personal insurance, gifts and donations.

The five main expenditure items of the families in 1977 were the following:

	Percent of the Total
Food	24.8
Housing	15.0
Transportation	14.9
Clothing	10.3
Housefurnishings and Equip.	9.3

1/ Does not include the value of goods and services obtained free nor those items obtained without pay from a family owned business.

The remaining 25.7 percent of the expenditures corresponded to creation, reading and education; medical care; personal care; alcoholic beverages and tobacco; personal insurance, gifts and contributions, and other miscellaneous expenditures.

The Study also provided the data on consumption expenditures by income group. Some of the relavant conclusions on consumption expenditures for five income groups were as follows:

1. Families with Incomes Under $2,000

About 39 percent of the total expenditures of these families were employed in the purchase of food. The next two most important expenditure items for these families were housing (about 17 percent) and transportation (about 8 percent). The fourth and fifth most important expenditure items were the purchase of alcoholic beverages and tobacco and medical care with about 7 percent each of the total. The families expended relatively little on personal care, recreation, reading and education.

2. Families with Incomes from $2,000 to $4,999

Among these families, the purchase of food also constituted the most important expenditure of 37 percent of total expenditures. Housing, house furnishings and clothing followed in importance. The fifth most important expenditure item among these families was transportation.

3. Families with Incomes from $5,000 to $7,499

Families in this income level reported average expenditures of $6,248 and employed 31 percent of the same in the purchase of food. The next important expenditure items were housing and transportation with about 13 and 12 percent of the total, respectively. The purchase of house furnishings

and equipment (11.3 percent) was the fourth expenditure, items followed in order of importance by the purchase of clothing (9.8 percent) alcoholic beverages and tobacco (6.9 percent), medcial care (4.5 percent), personal care (3.6 percent), and recreation, reading and education (3.1 percent).

4. Families with Incomes from $7,500 to $9,999

Families with incomes from $7,500 to $9,999 reported an average expenture of $8,406. The main expenditure items among these families were: food, 26.8 percent; transportation, 14.3 percent; housing, 13.3 percent; household furnishings and equipment, 10.3 percent; clothing, 10.2 percent, and alcoholic beveraged and tobacco, 7.3 percent.

5. Families with Incomes of $10,000 and Higher

The average annual expenditures of families classified in this group amounted to $19,145 of which only 19.8 percent was for food. The proportion spent on transportation came close to that of food, namely 17.4 percent. Probably those families in the higher end of the income category spent more on transportation than on food.

ABSOLUTE DOLLAR EXPENDITURES ON FOOD UNDER THE 1977 STUDY

An average family in Puerto Rico had $2,075 per year, of which $1,806 were incurred on food at home and $269 on food away from home. Food at home consisted of meals prepared at home, meals delivered at home, and a part of the expenditures were on ice cream, refreshments, and candy. Food away from consisted of meals at work and school ($185), meals in other

places ($67) and a part of expenditures on refreshments. The details are shown in Table 7.

When the annual expenditures are translated into weekly expenditures, it would be seen that an average family had $39.90 total expenditures, $34.73 for food at home, and $5.17 for food away from home. The details are shown in Table 6.

TABLE 6 WEEKLY AVERAGE FAMILY FOOD EXPENDITURES

(In Dollars)

	Total	Food at Home	Food Away From Home
1. Total	$39.90	$34.73	$5.17
2. Meals Prepared at Home	34.25	34.25	-
3. Meals at Work and School	3.56	-	3.56
4. Meals in Other Places	1.29	-	1.29
5. Meals Delivered at Home	1.54	1.54	-
6. Ice Cream, Refreshments, Soda and Candy	0.65	0.33	0.32

TABLE 7 ANNUAL AVERAGE FAMILY FOOD EXPENDITURES

(In Dollars)

	Total	Food at Home	Food Away From Home
1. Total	$2,075	$1,806	$269
2. Meals Prepared at Home	1,781	1,781	-
3. Meals at Work and School	185	-	185
4. Meals in Other Places	67	-	67
5. Meals Delivered at Home	8	8	-
6. Ice Cream, Refreshments, Soda and Candy	34	17	17

Source: Puerto Rico Department of Labor and Human Resources, Income and Expenditures of Families in Puerto Rico, 1977, Vol. IV, Table 10A.

TABLE 8 AVERAGE EXPENDITURES OF THE FAMILIES BY SPECIFIC EXPENDITURE ITEM AND BY INCOME GROUP , ALL FAMILIES OF P.R. 1977

	INCOME GROUP									
	Total P. R.	Less Than $1,000	$1,000-4,999	$1,500-1,999	$2,000-2,999	$3,000-3,999	$4,000-4,999	$5,000-7,499	$7,500-9,999	$10,000 and Over
Food	$2,075	$523	$563	$757	$1,057	$1,444	$1,565	$1,944	$2,252	$2,971
Meals prepared at home	1,781	510	527	714	1,013	1,378	1,495	1,787	2,015	2,280
Meals at work and school	185	0	0	12	14	37	23	106	151	435
Meals in other places	67	6	33	6	19	7	19	19	34	165
Meals delivered at home	8	0	0	17	3	7	9	7	8	16
Ice Cream, Refreshments, Sodas and Candy	34	7	3	8	8	15	19	25	34	75

The CHAIRMAN. If you could take the Nutrition Assistance Program that is in Puerto Rico right now, if you did not have to worry what we might do here in the Congress or in the Department of Agriculture, if you could just redesign the Nutrition Assistance Program, what are some of the basic things that you would want to do with it in Puerto Rico?

Governor HERNÁNDEZ COLÓN. Well, with an increased level of funding?

The CHAIRMAN. Assuming that you could tell us what you wanted and it would pass. I realize that is not necessarily the real world. But what are the things that you would want the most and assuming there was an increase in funding?

Governor HERNÁNDEZ COLÓN. Yes. Well, basically to include in the program about 100,000 families which are presently excluded, and to improve the benefits up to mainland levels. Those would be the main changes that we would make.

We would want to continue exploring programs such as the one that we have developed where we were using funds from the block grant to subsidize jobs that are then taken by food stamp recipients. That sort of program, to us, goes in the right direction in terms of bringing people out of food stamp dependency. We would like to experiment more along those lines. But basically those would be the changes that I would make.

The CHAIRMAN. Thank you. I was wondering, Governor Romero-Barcelo, if you went to statehood, if the Nutrition Assistance Program that Governor Hernández Colón and I were just talking about could be converted in 1992? That is based upon an agreement between the Governor and the Secretary. It has to be converted by 1997. It has to be back to a coupon program by 1997. Do you support the idea of it switching from a cash Food Assistance Program to a coupon program?

Governor ROMERO. Before I answer that, Mr. Chairman, let me say I forgot to submit my written testimony.

The CHAIRMAN. I understand. In fact, the written testimony of each individual will be made a part of the record. I should have mentioned this when Governor Hernández Colón testified first, and I mention it for all of you, that the record will stay open. This hearing is for the benefit of all of you and I want it to be as full and as complete as possible. If, when you get back to Puerto Rico and review the testimony you determine that there is something further that you want to add, or there is another point you want to make either in reference to your own testimony or in response to somebody else's, the record will be open. We want as complete a record as possible. So none of you should hesitate to send further information.

Governor ROMERO. Thank you very much, Mr. Chairman.

The CHAIRMAN. But on the basic question, how do you feel about the cash Food Assistance Program going to a coupon program——

Governor ROMERO. Let me first say to the Senator that I was the one that asked for the cash assistance program once we realized that we were not going to remain in parity and that we were going to be cut back. I felt that it would then would be a good time to start a pilot program.

The reason we requested the cash out program was that we found out that a lot of the people needed other things than food and were more urgent to them. For instance, some people were so poor they would much rather have more rice and beans, perhaps less meat, and buy a pair of shoes or some clothing for the children or taken to a private doctor in one case instead of to the public hospital, or taken to a dentist instead of where they did not have the dental facilities for some special work. They needed that money.

When they needed money, they would go to cash it to the stores to trade the food stamps for food, and the merchants would give them 75 or 80 cents on a dollar which created, first of all, people who were not suppose to benefit from the program were benefiting from the program. Also, it created a tax fraud because they would put into the till $100 in food stamps and take out $100, but they were getting an extra $25 which were tax free and they were putting that in their pocket. So it was creating a tax fraud.

It is impossible to tell people with this you have to buy this because people will get a way if they need something else to buy something else. So why not let people have that authority and have that right and find out what happens.

Well, at the beginning, the merchants were afraid, the food merchants were afraid that the food sales would go down. But they didn't go down. So the food sales kept up to the same level. So there was no change. What it did do is that the recipients were now getting 100 percent of the money that they were suppose to get instead of 75 percent in many instances when they cashed it for something else. So that is why we have found that the cash program has been very very successful.

The CHAIRMAN. But under statehood you would go to a coupon program.

Governor ROMERO. Well, if we have to go for that to receive the additional funds, fine. It is better to have the additional funds for them, for the people, the recipients. But I think we would say at the time, why don't you take a good look at our assistance program, our cash program, our check program? Maybe it would be good for the whole Nation. I think a very good look should be taken at that program. Maybe it would be good—I don't know if it would be good or not. It has been very good for Puerto Rico and there has been no diminishing at all in the purchase of the food.

It is very difficult to tell people that you are going to use this to buy that. If they need something else, they will find a means to cash it, and if it is a second coin, which it is, it is a second currency, somebody will cash it for them where they will take a percentage and then somebody else will be benefiting and then you have also tax fraud.

Senator HARKIN. Mr. Chairman, I just want to ask then, it sounds like what I hear you saying, Governor, is that you would like to see the cash program continue. If statehood passes, you would rather see the cash program continue, just like we have now, and not go to the coupons?

Governor ROMERO. That is correct. But it would have to be at the same level because——

Senator HARKIN. The same level as we have right now?

Governor ROMERO. Right. The same level as the rest of the Nation.

Senator HARKIN. Well, you do not have that right now.

Governor ROMERO. No.

Senator HARKIN. Well, would you like to see that happen right now regardless of statehood status?

Governor ROMERO. Yes.

Senator HARKIN. You would do that right now regardless of statehood or Commonwealth?

Governor ROMERO. That is right. Yes, of course.

The CHAIRMAN. Senator Lugar is going to have to leave. I yield to him for questions. Then I will have another followup question on that, Governor Romero.

Senator LUGAR. Thank you very much, Mr. Chairman. We have a vote in the Foreign Relations Committee and so I will try to do my duty over there too.

I just wanted to ask this question of Governor Hernández Colón. The gist of your testimony was that an unbalanced set of options is developing for the people of Puerto Rico. I suppose it is not clear to me what remedy you hope that Congress, one committee or another, will fashion. In other words, I am not certain I understand the choices that you perceive Puerto Ricans will have and how you believe they could be made equitable.

Governor ROMERO. Parity in the social programs.

Senator LUGAR. Regardless of status chosen.

Governor ROMERO. Regardless of status choice between a commonwealth and statehood. Of course, independence is another matter.

Senator LUGAR. Well, now, what is lack of parity as you see the situation now? In other words, what sort of choices or have they been filled in? Is it still a blank slate and you are attempting to——

Governor ROMERO. The lack of parity essentially is in this program. It is in Aid to Families With Dependent Children. It is in SSI. It is in Medicaid and Medicare.

Senator LUGAR. In other words, it is your contention that those who vote for statehood are voting for the same programs that are enjoyed by all other citizens of the United States now. Now, those voting for a commonwealth status are voting for something else.

Governor ROMERO. My contention is that these economic benefits, because they are direct benefits to individuals, are of such political import, and they will be going to about half of our electorate, that they will distort the basic values that should be taken into consideration in making such a fundamental decision as choosing between independence, commonwealth, or statehood. They are just overwhelming.

Senator LUGAR. Governor, how do you respond to the thought that if there is parity across the board in each of the three options, independence, statehood, or commonwealth, and the citizens vote for commonwealth status with the thought that they would receive all of the benefits, do they also pay taxes under those conditions or are they voting for a tax exemption plus all the benefits?

Governor ROMERO. Under commonwealth we have fiscal autonomy. The reason for that autonomy is in order to provide for the

economic development of Puerto Rico. Under that autonomy we have been able to bring Puerto Rico from the economic status that it was in the 1940's up to the level we have now. If you take that away as an economic development tool, then you condemn Puerto Rico to permanent dependency on these programs.

So what I am saying is that you have to run two parallel courses under commonwealth; one that takes care of the needy, another one that takes care of economic development, the development of economic activity as such in Puerto Rico with the intention that this other course gets Puerto Rico to such economic development levels that the people will not need as much the assistance that would now be provided to them.

Senator LUGAR. I understand that and it is a very good explanation. Is this a fair summation then that if we went the route of parity across the board and citizens voted for commonwealth, then at least temporarily the citizens of the rest of the United States would be providing additional benefits to Puerto Rico which we have had testimony to $500 million to $900 million. Likewise, by allowing this independent status of the economy in which you keep the taxes there as opposed to paying them here, the citizens of the rest of the United States would be providing an additional subsidy for development of Puerto Rico. Now, that may be good public policy.

Governor ROMERO. Yes.

Senator LUGAR. Maybe to offer greater social benefits plus subsidy to develop the economy.

Governor ROMERO. That is our contention.

Senator LUGAR. But that I think will have to be understood by all the rest of the constituents of our country.

Governor ROMERO. Indeed.

Senator LUGAR. That we are moving out of both pockets, and I am not certain that is understood now. But it is useful to have this hearing I think to surface all these facts.

Governor ROMERO. Indeed.

Senator LUGAR. I thank you very much.

Governor ROMERO. I thank you.

Senator LUGAR. Thank you, Mr. Chairman.

The CHAIRMAN. Governor Romero, I have a followup question. Under the bill, Federal taxes are not collected and Supplemental Security Income changes do not go into place until 1994. What do you think of that timetable, especially the SSI or Supplemental Security Income delay until 1994?

Governor ROMERO. The Supplemental Security Income could come in gradually as taxes are being paid and being phased in. But, to us, achieving equality in our political rights is extremely important. If we have to give up a tradeoff like that for a few years, we are willing to give that tradeoff. But we would like to have all the benefits as soon as possible because Puerto Rico needs them. But not only that, as I mentioned to Senator Johnston, we should be fair and that one thing is benefits and the other things are obligations.

I think it is easier to phase in obligations than it is to phase in benefits because the rights of the recipients from benefits, they could go to court and probably get a court order to have those ben-

efits started right away; whereas, I do not see what standing anyone else would have to go say, well, obligations are being phased in. We do not want them to be phased in. So I think it is easier to phase in obligations like it is in the bill right now, 5 years paying of taxes, than it is to phase in the benefits. I think the benefits should be received right now.

I think every territory that became a State received some special consideration. For instance, Alaska was millions of acres that were given to Alaska as it became a State, and other territories have received some benefits as they become a State. What we are asking is because we have been now without paying taxes, Federal taxes for so long, it is a complicated issue now. You cannot go from not paying to paying from one day to the next because it will not make for a smooth transition so you have as smooth a transition as possible. That is why we asked for a longer phase in of taxes, but the Senate Interior Committee decided on was for 5 years.

The CHAIRMAN. It is not often in this committee that we have the opportunity of having a Member of the House of Representatives to come and testify. Congressman, I appreciate your courtesy in waiting while I followed up with some of these questions with the two Governors. I am going to have another question for Senator Martin. Mr. Fuster, sir, it would help us if we had some ideas from you. Is there anything you would like to add to the hearing record—you have heard the discussion, you have heard the questions—from your point of view and from the point of view of the House of Representatives?

STATEMENT OF HON. JAIME B. FUSTER, A U.S. REPRESENTATIVE, RESIDENT COMMISSIONER, COMMONWEALTH OF PUERTO RICO

Mr. FUSTER. Well, thank you, Senator Leahy. I appreciate your invitation. I think you have a lot of food for thought in the testimony of the three representatives of the parties of Puerto Rico.

I do want to publicly acknowledge the great help you have given me in the past in improving our own nutrition program. When I first came to Congress, as you may recall, 5 years ago, I sought an COLA increase in our own nutrition program, and I did get from your committee and the House committee a $28 million yearly increase for 5 years, which has gone a long way in making the program more useful in the island.

There are a lot of controversial things that were said before by the different speakers, but I will not attempt to answer any of them. However, I would like to share one basic idea that I think might help the committee look into these questions perhaps more fully. There is often a misconception that the people in Puerto Rico are not very inclined to work or that they are too dependent on Federal assistance, and what have you. That is surely not the case.

The people of Puerto Rico are by and large, very productive people. They would rather have jobs than Federal assistance. Right now the people that are on food checks in Puerto Rico are about 40 percent of the population, not 60 percent as was mentioned by someone before. It has been higher in the past.

Senator FOWLER. What is the number?

Mr. FUSTER. It is 40 percent.

Senator FOWLER. Forty percent?

Mr. FUSTER. Yes, 40 percent rather than 60. The exact figure is 43 percent, Senator, of the households in Puerto Rico.

Senator FOWLER. That is down from 56 percent? Do you agree it was 56 percent in 1981?

Mr. FUSTER. Yes. Right.

In fact, unemployment in Puerto Rico in 1984 was about 23 percent. It is down now to about 15 percent. It fluctuates every month a little bit, but there has been a big difference, I think.

Senator FOWLER. To what do you attribute that?

Mr. FUSTER. I attribute that to good—well, in part——

Senator FOWLER. Good government.

Mr. FUSTER. Besides good government, there are many different factors that come into this: We do not face the oil crunch any more, the bad effects of the oil crunch; the strengthening of the mainland economy is also reflected in Puerto Rico; and the very deliberate efforts of the Government of Puerto Rico to create jobs.

I mention this because it shows that there is a willingness and a capacity to do that so that we do not envision the present situation as lasting forever. I would say it is our deepest hope that we can turn the people who now are on Federal assistance into productive people in the future, at least in larger numbers than have occurred in the past. I think this is very possible, and we have had good evidence during the recent years in Puerto Rico that that is the case.

The problem is, however—and this is the main point I want to make—the problem is that Puerto Rico faces very unique conditions, with a huge population for such a small island of very limited resources. To give you an idea, and this is something that some of my statisticians have worked out, you would have to put the world population within the United States to have the same population density that Puerto Rico has and, then, we have very few natural resources.

So trying to make an economy fully productive under those very, very limited circumstances is very difficult. But we have done a good job in the past. We are continuing to do a good job. While we need additional food assistance, or as the Governor has expressed, parity, we hope that down the line we will continue to decrease the unemployment in the island and put people into jobs as we have done with significant success in the last few years.

The other thing that I want to mention is that people in Puerto Rico do pay taxes. Again, I raise this because some of the prior testimony may give the impression that people in Puerto Rico are living off the wealth of the land and not doing their part, and that is certainly not true. Puerto Ricans that have income and that have jobs pay higher taxes than their counterparts in the mainland. They just pay them to the local government rather than to the Federal Government.

It would be a gross distortion to give the idea that rich people, well-to-do people, or people that have employment in Puerto Rico are not doing their part to contribute to the economy—they are. They are paying to the local economy which allows us in the government to do things in Puerto Rico and in that way avoid further enhanced or increased dependence on the Federal Government. So I think there is more balance to some of the things that occur in

the island than what sometimes one hears here and there. I hope that in looking into these programs you will keep these remarks in mind.

The CHAIRMAN. Thank you very much, Congressman.

Incidentally, I mention to all of the witnesses, if anyone wants to add to an answer to a question asked of any particular witness, feel free to do so.

Senator Martin, if you look at the independence option that is written into the bill, it states that if Puerto Rico chose the independence option, Federal funding for a number of the different programs would only be provided in cash to the newly independent Puerto Rico for 9 years. Are you satisfied with the referendum bill in the fashion in which it has been reported by the Energy Committee?

Senator MARTIN. Well, as to that aspect in particular as to the mechanism, that is to say that there will be a commitment for a median term level of economic assistance for a transition period, and that mechanism is sound—and I think it is the essence of fairness in the historical context—what I would like to see—and I think there would be time for that—would be to see that those transition grants are as generous as possible, taking into account that however generous they may be, they will be, of course, the least costly alternative to the United States vis-a-vis statehood or the continuation of commonwealth.

The CHAIRMAN. My last question.

Mr. Dunn, under the statehood option, food assistance benefits would be increased by $700 million in 1992. Does Puerto Rico need that full increase in 1992 to address hunger?

Mr. DUNN. Sir, just to point out that the $700 million would be if it was at the level that is used in all the other 48 States and the District of Columbia.

The CHAIRMAN. I understand. Fifty States.

Mr. DUNN. Right. Certainly, that is something that would be addressed in the design of the program under any of the options in terms of an increased amount of funding. There has been, of course, an increase in funding for the Nutrition Assistance Program over the last several years, and that is something that will likely be an issue to take a look at in the future as well in setting grant levels or program levels.

The CHAIRMAN. I am not sure that is quite the response to my question. If you take the statehood food option, does Puerto Rico need a $700 million increase in 1992 to address hunger?

Mr. DUNN. One of the things that we would want to do is take a look and see what those benefit levels would be and adjust them accordingly to what they have. I am not prepared at this stage to say exactly what level of increased funding would address all of the issues or concerns.

The CHAIRMAN. Well, why not? Why aren't you prepared to?

Mr. DUNN. Well, sir, I think that if that is the way in which the program would operate, that is, if it is a statehood option, then the range could be from $500 to $900 million.

The CHAIRMAN. Before we even get to that point in carrying out our responsibilities on this legislation, we need to know. We need to know if Puerto Rico needs a $700 million increase by 1992. Does

Puerto Rico need that increase to address the issue of hunger? I would ask that the administration respond to us on that specific question: Does the administration support a $700 million increase?

I am not sure how we respond to our responsibilities on this. It is not a question of whether one favors commonwealth, statehood, or independence. It is a question of what are the nutritional needs of the people of Puerto Rico. So long as Puerto Rico is affiliated with the United States as either a commonwealth or a State, we have those responsibilities as part of our Nation. I want to know what is the Department's estimate of the needs in Puerto Rico, and, whether they are supportive of meeting those needs?

Mr. DUNN. Certainly, sir. I would say that an additional infusion of $700 million into the economy would have obvious significant impacts in improving purchasing power of food stamp or grant recipients, increase eligibility levels, and so forth, and should that be the case in which it would be determined that would be the funding level, then Puerto Rico, as a State, would be treated accordingly and be made a part of the Food Stamp Program or grant option in the funding options.

The CHAIRMAN. But understand, what I am asking is what are the needs.

Mr. DUNN. I understand.

The CHAIRMAN. What are the needs? What do we need to respond to it?

Senator Harkin is the chairman of the Subcommittee on Nutrition and Investigations that will have to do the real grappling with this issue. So I will turn all the difficult questions over to Senator Harkin. I will then announce all the popular results.

Senator HARKIN. Thanks a lot.

The CHAIRMAN. I will be right back. I will turn the gavel over to you. I know you have questions.

STATEMENT OF HON. TOM HARKIN, A U.S. SENATOR FROM IOWA

Senator HARKIN [presiding]. Thank you.

I have a full statement that I would like to make a part of the record.[2]

I will not burden everyone with reading the whole statement, but I would like to make a few points which I think have been made before by some of you. I just want to perhaps, repeat them for emphasis.

I believe, if nothing else, that this hearing today and the bill that has come out of the Energy Committee brings home the fact that the people, the U.S. citizens, of Puerto Rico are treated differently from the U.S. citizens anywhere else, especially when it comes to matters under my jurisdiction, that is food stamps and food programs. That came about in 1982, and I will get into that in a little bit. The average income level of Puerto Rico is less than that of our poorest State with 62 percent of the population having incomes below the U.S. poverty line and 43 percent receiving food assistance. Then add to that the fact that everyone agrees that food is considerably higher in Puerto Rico than it is in the United States.

[2] See page 4 for the prepared statement of Senator Harkin.

Well, in 1982, we capped the Food Stamp Program, changed it into a cash program rather than a Food Stamp Program. I remember those debates well. I was on the House Agriculture Committee at that time and on the subcommittee dealing with food stamps.

What has happened is that the funding was changed to cash and it was significantly reduced, if I am not mistaken by 25 percent, thus denying thousands of needy individuals food assistance and reducing the level of assistance to the recipients, and quite frankly this is wrong and it has been wrong since 1982, and it should be changed.

So if nothing else, we have this opportunity now to rectify this, and I believe it should be done in a manner that does not depend on the other issue of what the people of Puerto Rico want to do in terms of independence, statehood, or commonwealth status. Hunger should not be used as a tool to influence a person's vote. I mean, Governor Barcelo, I understand that Alaska was given land, and when States come into the Nation, they are given things. But there seems to me a level or at least a certain element that you just cannot deal with when you are asking whether or not a territory or, in this case, a commonwealth wants to become a State. Land is one thing; taxes are similar; but food and hunger is quite another matter and should not be used in any way as the basis for influencing a person's vote.

That is not to say it is not done in certain parts of the world. But to the extent that we have the ability and the authority here to ensure that does not happen in this case, we ought to exercise that authority to make sure of that.

So, again, we ought to reexamine our policy regarding food assistance to the people of Puerto Rico, who are U.S. citizens. Again, I point out as I think one of you pointed out earlier, that U.S. citizens in Guam and the Northern Marianas and everywhere else, get the same level of food assistance as people in the United States. Only in Puerto Rico do they get less, only in Puerto Rico. That is just not fair. So we can use this opportunity to rectify a situation that I think has been unfair since 1982.

Now, I understand the legislation that is before us, and that we will be looking at in my subcommittee, provides for full food stamp benefits evidently on the same basis as we have it in the United States if Puerto Rico decides to become a State, and it would do that immediately. Well, again, I tend to think that to a person who is getting 25 percent less in food assistance, the idea of an immediate hike of 25 percent would be something that I would think about very carefully when I went to vote. Again, I repeat that I do not think we ought to be in a position of using hunger as a factor. Now, there may be other things out there. But at least in this one area in which I have jurisdiction, hunger should not be used as a basis of influencing a vote.

Now, whether or not we stick with the cash program or we go to a coupon program, again, I have not made a decision on that. I do not know. In 1982 when we changed—and again I am using Mr. Dunn's testimony—congressional committees heard testimony that economic dependency on food stamps was increasing while fewer people were working in agriculture, less land was used for farming, and fewer crops were produced.

I remember those arguments being made to me on the House side, that we were making the people of Puerto Rico dependent on food stamps, but that they could be farming, producing their own food, et cetera, doing more agricultural work. Well, we have had 6 years experience, almost 7 years now of experience on that point and I would like to ask has that happened? Has agriculture developed more? Is there more land used for farming? Are there more crops being produced indigenously in Puerto Rico or has the situation basically stayed about the same?

These are the arguments that were made to us at that time and I would like to take a look and see what has happened. Should we stay on cash? Should we go to coupons? Can anyone answer? Do we have any data to show whether or not more land was put into production, whether more people are farming, and whether more crops are being produced indigenously in Puerto Rico since 1982?

Governor ROMERO. The general facts, Senator Harkin, I think we are still importing the same percentage of the food that we consume that was being imported then.

Senator HARKIN. So nothing much has changed.

Governor ROMERO. In the overall picture, no, very little has changed. There has been less land used in agriculture in acreage I think now than there was being used then.

Senator HARKIN. That is my understanding. My understanding is basically the same. More land is being used for housing and commercial development and such uses.

Governor HERNÁNDEZ COLÓN. Agricultural production has gone up. Now, there have been a number of projects that have been carried out with the funds from the program. I do not have the data here on the success of those projects and the impact that they might have had on the increase of our agricultural production. We would be very happy to submit that data to you because we can provide it.

Senator FOWLER. Senator Harkin is generous on that point because that was the line of questioning that I wanted to pursue. But quickly, Governor, if you have any of your people—what is the percentage, the overall percentage, of food imports in Puerto Rico now? How much food do you have to import?

Governor HERNÁNDEZ COLÓN. It is approximately 85 percent.

Senator FOWLER. And what commodities are you totally dependent upon for imports?

Governor HERNÁNDEZ COLÓN. Rice, beans, potatoes. We have developed a larger share of our market in terms of poultry and hogs. Our capital industry, however, has declined. Imports have increased in that area also. We are self-sufficient in sugar.

Senator FOWLER. A cash crop, and that was——

Governor HERNÁNDEZ COLÓN. Yes.

Senator FOWLER [continuing]. Also as a result of policy decisions some years ago now.

Governor HERNÁNDEZ COLÓN. And we are subsidizing that. If I may, in answer to your question and yours, Senator, I think—I say this very respectfully—that the premise of the analysis about agricultural production in Puerto Rico needs to be looked at very carefully because Puerto Rico has a very difficult circumstance regarding agriculture, and I am not merely speaking about very little

land that is available in any case. You know, Puerto Rico is only 100 miles long and 35 miles wide. It is a mountainous central region with desert-like areas on the southeastern coast.

But more than that, Puerto Rico is caught between two incredible difficult economic processes regarding agriculture. On the one hand, you have our neighbors in the Caribbean who produce a lot of agriculture, do not pay fair minimum wages, do not have to comply with OSHA regulations, do not have to comply with environmental regulations, do not have to comply with—do not have to transport their products in U.S. bottoms. We do all of that, and it does not make any economic sense, for example, to try to grow, let's say bananas in Puerto Rico when you can buy them in the international market for one-tenth of the production costs in Puerto Rico.

On the other hand we have the mainland economy that produces at such huge volumes they can put, for example, Georgian eggs in Puerto Rico at one-third the price of the productive cost. So for the consumer and for the economy in general it makes a lot more sense to buy stuff either from the mainland that has a huge volume or from the region that has very low cost than going to agriculture. It is not because we are not growing crops.

Some of the things that we are doing now is growing products in Puerto Rico to sell in New York and European markets. So the whole comparison with the agricultural production of other countries is very complicated because you are dealing with economies that have their own rules, a free market economy where people move in ways that make sense rationally, make sense in an economic sense. So it is not because people are on the dole, that they are not working the land. There are many other complicating factors beyond that.

Senator FOWLER. May I ask some questions, Governor, about—play the devil's advocate here for a minute. You are not to assume anything by these questions, but I want to ask them.

Just looking at this as a case of first instance, it is always amazing that the testimony of yourself as Governor and Senator Martin and those advocating independence all paint the options in the bleakest terms that all three positions are advocated in the extreme. In the case of your testimony, your prepared testimony you say that if you go to statehood it would precipitate Puerto Rico into an economic catastrophe of unimaginable proportions threatening the stability of our whole society creating a state of growing and inescapable dependency. Is this just the work of an out of work speech writer or is——

[Laughter.]

Senator FOWLER [continuing]. That what is going to happen if your citizens chose statehood? Why do you believe that?

Governor HERNÁNDEZ COLÓN. To me it is not rhetoric.

Senator FOWLER. What specifically would happen under statehood that would create, in your opinion, economic disaster for the island?

Governor HERNÁNDEZ COLÓN. All right. Laying on an additional layer of taxes upon the Puerto Rican taxpayers and on the economy and removing special benefits that induce American companies to establish themselves in Puerto Rico, the principal sectors of our

economy are manufacturing and services. Both of these sectors are very much dependent upon the special relationship that we have right now with the United States.

Senator FOWLER. Which is, you would acknowledge, heavily subsidized by the American taxpayers——

Governor HERNÁNDEZ COLÓN. Indeed.

Senator FOWLER [continuing]. To create that system. And you think that statehood would just push that beyond endurance by the economy?

Governor HERNÁNDEZ COLÓN. Well, let me put it this way. Given the locational disadvantages of Puerto Rico for industry and for other economic activities, the one advantage and the one main attraction which we have is the tax concessions that we can make in Puerto Rico. If you take that out, which is the motor of new investments presently flowing into Puerto Rico, if you take from our bonds the margin that they have today and create additional difficulties for us in marketing our bonds, then you are going to place our economy in a very difficult situation in order to grow, that is in order to attract new industry. We have to be in a constant movement of attracting new industry just to stand still in terms of the jobs because, as you know, industry moves from country to country as economic situations change.

Senator FOWLER. Let me interrupt. How do you respond to that, Governor Romero?

Governor ROMERO. Senator, quite differently.

Senator FOWLER. I know that. But why? Tell me specifically of the issues that Governor Hernández raised? What will be the benefits of statehood and why is his analysis, economic analysis in your opinion not correct?

Governor ROMERO. Yes, Senator. In the first place, the basis of their information of the Commonwealth economy, as they call it, is that the industries be given tax exemption in Puerto Rico otherwise they would not come. That is what they say. Puerto Rico, according to them, is in a disadvantaged position competitively. I disagree.

In the first place, for any industry that requires or wants natural resources from Latin America, South America, or Africa, Puerto Rico is closer. Puerto Rico is not at a disadvantage in transportation because it costs more to ship——

Senator FOWLER. I am only interrupting you because we have to go in about 8 minutes. But what do you say to the present Governor's position that statehood would eliminate the tax concessions to those that are already there and make them possibly chose to island hop and move on to the next place to make the valiums?

Governor ROMERO. I am trying to set the ground work, the ground to explain that they will not leave and we will have more coming in. One of the——

Senator FOWLER. Why will you have more coming in? What are the advantages under statehood that would make more come in?

Governor ROMERO. The certainty of the future of Puerto Rico.

Senator FOWLER. The political stability.

Governor ROMERO. That is right. Any investor, the first thing he looks at is how safe my investment is. The safer his investment is,

the less returns he demands for his investment. The more danger in his investment, the more returns he demands.

At this point in time since Puerto Rico cannot guarantee the political stability forever because we are not a State and the road is always open for independence, which, in the minds of the investor, is bad economically; therefore——

Senator FOWLER. In the minds of the investor, is the current administration stable or unstable?

Governor ROMERO. Very unstable. [Laughter.]

Senator FOWLER. We assure you that you will have the last word. [Laughter.]

Governor ROMERO. So that the investors look at this and they demand more returns for their investment. The only thing that—the main thing that the Commonwealth government causes industries to come in is for the tax exemption. Whereas, we have labor that we pay minimum wages, but still, hour per hour, in the manufacturing industry, is about $9 per hour, and the poorest State pays about $15 per hour. So it is still a $6 differential. So that labor in Puerto Rico is less expensive, plus the productivity of the Puerto Rican worker is very high, and it has been found to be higher than even in Japan by some of the industries.

So there is no competitive disadvantage as far as labor is concerned, and there is plenty of labor and easily trainable.

Senator HARKIN. Would you yield?

Senator FOWLER. Sure. I am on your time. Certainly I yield to my friend.

Governor HERNÁNDEZ COLÓN. Can I put in the last word?

Senator FOWLER. I will make sure you have the last word. Go ahead.

Governor HERNÁNDEZ COLÓN. The lack of political stability in Puerto Rico is nonsense, absolute nonsense. Ninety-five percent of Puerto Ricans favor permanent union with the United States either through Commonwealth or statehood.

So an investor looking at Puerto Rico right now need not fear any type of political change toward independence. The only type of change that may be envisaged is a change toward statehood. That is the political reality in our island.

Senator FOWLER. If there is to be a change.

Governor HERNÁNDEZ COLÓN. If there is to be a change. But we are not a politically unstable area at all.

Senator FOWLER. Well, you wanted me to yield.

Senator HARKIN. Go ahead.

Senator FOWLER. Let me just put in one radical notion on behalf of the Independency Party.

Governor ROMERO. There are many other arguments.

Senator FOWLER. I know there are. Since Senator Harkin is back and he will have far more to do, he and Chairman Leahy than I. I want to throw something out radical that the independence crowd here is going to like. I think it ought to be addressed because it was really the question that Senator Harkin asked. That is, it was not too many years ago, it may have been 30 now, that Puerto Rico, I would imagine, grew and produced and ate 85 percent of its food. Now you import 85 percent of your food, and we have this incredible problem with the payments, regardless of what level.

Now, how do you answer that question that—I'm using Senator Martin's words, he said that neither one of these options are right because continuing business as usual will just make things worse, and they are advocating, in their own words, a radical approach of choosing independence in order to make some hard decisions for the future and get off of this trend of ever increasing dependency. How do you respond to that?

Senator MARTIN. Me? Well put, Senator.

Senator FOWLER. I told you not to assume that whatever I said was my position, but at least it makes the questioning, I hope, a little more interesting.

Senator MARTIN. I did not say it was your position. I just said it was well put.

Governor HERNÁNDEZ COLÓN. I am not entirely sure—as a matter of fact, I doubt that you are correct in the assertion that 30 years ago we produced 80 percent of our food.

Senator FOWLER. Or 40 years ago. But at some point when you were basically an agricultural society before you switched to cash economy on sugar you were producing your own fruits and vegetables. I do not have an exact figure, but I would assume it was like most of the Caribbean, it was very very high in your self-sufficiency on food.

Governor HERNÁNDEZ COLÓN. We had a high agricultural production because we were sugar exporters.

Senator FOWLER. Yes. I grant a lot of reasons for it. We are stuck with a figure now. We are stuck with a reality that if we are going to make a huge decision on food and food payments, the fact is that you are almost totally dependent upon imports and the money to buy those imports.

Now, this is not unique. This is what we are wrestling with all over the world. But it is a difficult situation since part of the decision that the U.S. Congress will make if we are going to change and advocate parity, as all of you request, you are looking at an escalating curve of payments for food alone under any system, whether it is Commonwealth or statehood, and I even say to our friends on the independence side, even if they voted independence, they would still come running up here and ask for some cash grants to help the newly emerging nation.

Senator BERRIOS. If I may interrupt you for a moment, because I have heard our friends here say many things. This reminds me of a psychiatrist speaking to people who are on drugs and some of them say, "No, the answer is just keep giving me more drugs. That way I will get cured."

That is the basic issue regarding dependency in Puerto Rico. Are we going to try to break from dependency or are we going to keep promoting dependency? That is the issue the United States has to face; for its own interest and for Puerto Rico's interest; and, of course, it is not good electoral politics. Here they are saying, please give me $500 million more so I do not lose the next election. They do not think of other alternatives. There is a fantastic unity here. On the whole, I think this process is very very productive and instructive.

Have you heard the arguments here? Please put us in parity with statehood because if you do not we will lose the plebiscite.

What about independence? That is why we do not have 70 percent or 80 percent of the votes because they have been telling people in Puerto Rico for 91 years that we will die of hunger if we become a free nation in friendship with the United States. That is what the whole issue is about. I think this is a very instructive process for you and for the Puerto Rican and American people.

Senator FOWLER. One last question and it is sort of unfair to ask because I know you cannot speak for the American pharmaceutical industry and the American businesses there. But have they taken an active part on the side of either one of these campaigns, the American business community now doing business in Puerto Rico?

Governor ROMERO. Yes, they have. They are bringing people from the Congress down to Puerto Rico.

Senator FOWLER. On behalf of statehood?

Governor ROMERO. No. They are bringing—no. The U.S.A. Puerto Rico Foundation, which is a foundation that is composed of all the 936 groups are bringing Senators and Congressmen to Puerto Rico to show them the factories, to show them what it is, and to talk to them about the 936 exemption.

Senator FOWLER. Well, you've always done that.

Governor ROMERO. That is right. But it has been increased.

Senator FOWLER. I am the only Senator that comes down to watch the winter league baseball.

Governor ROMERO. But it has been increased now, the activity with the Government.

Senator FOWLER. Let Governor Hernández respond, and then I am through.

Governor HERNÁNDEZ COLÓN. No, what your answer is entirely——

Senator FOWLER. Are they taking sides?

Governor HERNÁNDEZ COLÓN. They are not taking sides. They have not gotten into this act. Whether they will take sides or not, down the road we do not know. But at the present moment they are not taking sides.

Senator FOWLER. The American Chamber of Commerce in Puerto Rico is not advocating a position one way or the other?

Governor HERNÁNDEZ COLÓN. The Chamber of Commerce, no.

Senator BERRIOS. Senator, if I may? My grandfather used to say, "I give money to the party of my preference, and I assume every intelligent human being does so." So that is the answer to the question of who are the 936 companies and the Chamber of Commerce helping; because what is, is to their benefit. Any change is not to their benefit.

Governor HERNÁNDEZ COLÓN. I must say at the present moment what I perceive from them is that they would rather all of this to go away.

Senator BERRIOS. Of course, of course, and we would have Commonwealth for; always for them.

The CHAIRMAN [presiding]. Let the Governor finish. Do you have more you want to say?

Governor HERNÁNDEZ COLÓN. No.

Senator FOWLER. I thank all of you for your indulgence. I did not mean to conduct this as a debate between the parties.

The CHAIRMAN. Wyche, as I said before you came in, this is a rather unique hearing for this committee, especially as we are not here on the question of Commonwealth, independence, or statehood. We are here on the question of the nutritional needs of Puerto Rico. I did have a feeling, however, that the other questions might kind of work their way into the debate before we were finished.

Both Governor Hernández Colón and Governor Romero-Barcelo have testified before this committee before. The Congressman has been here before and has worked with us on nutrition programs for Puerto Rico. So there are no strangers. The independence movement has sent very articulate members to speak to that issue. In many ways, the fact that the questions have been so far ranging has been extremely valuable for the committee. I do not know if you all sit near each other on the plane going back and continue the debate on all the way back to San Juan, but it has been helpful here.

Tom, you had some more questions?

Senator HARKIN. I just again would say that the issue of the status of Puerto Rico is not for us to decide. That is for the people of Puerto Rico to decide. What is for us to decide is: will we treat U.S. citizens the same, regardless of where they live? That is the question for us to decide.

To say that somehow U.S. citizens residing in Puerto Rico are treated differently under the laws that we pass, at least insofar as food stamps and food assistance are different from what they are within the territorial boundaries of the United States, is to elevate form over substance, to elevate boundaries over human needs. If Puerto Ricans are U.S. citizens, they ought to be treated like Iowans or Georgians or the people of Vermont or anywhere else.

So if nothing else, this matter of statehood now provides us with the opportunity to address that fundamental question and to provide for that kind of parity, not because the people chose independence or commonwealth or statehood, but because they are U.S. citizens, and food assistance should be on a parity basis. Whether it is cash or whether it is coupons, it ought to be on a parity basis. That really is the essential question for us to answer. All the other things about whether or not I understand the arguments of the Independence Party, whether or not people are going to do other things or be more self-sufficient—that is another decision down the pike to be made. Our decision is on the basis of meeting the needs of U.S. citizens regardless of where they live.

Governor ROMERO. Senator, I just wanted to add that if the Governor had presented his case only asking for parity, the other argument would not have come in because we would have fully supported his request for parity. It is when he got involved in saying that he wanted parity because it was unfair in the status referendum process. I think if the status referendum process, then you have to bring everything else into the picture.

We support the request for parity. I asked for it when I was a governor. We lost it in 1982. I think we should have the parity, and I think right now we are a geographical discrimination. But I thought it was also important that everyone knew that the reason

for this unfairness now is also because the present status says we do not want pay Federal income taxes, and they are not paying——

Senator HARKIN. No. Again, let's get—Governor, excuse me for interrupting—back to the point of food stamps.

It is my feeling from just listening to this testimony and having been involved in nutrition assistance programs for 15 years now, and at least since 1982 in the case of Puerto Rico, that parity ought to exist regardless of whether it is a State or not. The problem with S. 712 is that it provides parity only if Puerto Rico becomes a State, and I do not like that. I do not like it because it says that if Puerto Rico does not become a State, we are going to treat U.S. citizens differently, and I do not like that.

Governor ROMERO. Senator, the thing is there are differences. We have a—as a matter of right it becomes. If the Congress wants to give us parity, as I said, we support it. That is very good.

Senator HARKIN. Either way. Either way.

Governor ROMERO. What you are talking about is a matter of constitutional right.

Senator HARKIN. But you support it either way?

Governor ROMERO. Oh, yes, right.

Senator HARKIN. Whether it is commonwealth or statehood?

Governor ROMERO. That is what I am saying.

Senator HARKIN. Fine.

Governor ROMERO. The only thing is that it is not an unfairness in the sense of the bill, because what they are going to say now is, here, if you have all the benefits from the Federal Government and then you do not pay Federal taxes, why should you be paying——

Senator HARKIN. That is an argument you can make in Puerto Rico, OK. All I am saying is that here and now you both agree that there ought to be parity regardless of whether there is commonwealth or statehood status. Fine, that issue is settled, and that is what will do in subcommittee.

You can make the other arguments in Puerto Rico. That is your decision to make.

Thank you, Mr. Chairman.

The CHAIRMAN. That's it?

Senator HARKIN. That's it.

The CHAIRMAN. Everybody is happy? Anybody want to say anything else? [Laughter.]

Thank you. We stand in recess.

[Whereupon, at 12:18 p.m., the committee adjourned, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

APPENDIX

Prepared Statement of the National Education Association on the Nutrition Assistance Block Grant Program for Puerto Rico

Mr. Chairman and members of the committee:

The National Education Association represents almost 2 million professional and support education employees working in the Nation's elementary, secondary, vocational, and postsecondary schools. We appreciate the opportunity to submit a statement regarding an issue directly related to the quality of education in the Commonwealth of Puerto Rico.

The links between nutrition and education are well-documented. From the 1903 British report which stated "Unless children receive proper nourishment, the[y] cannot be expected to profit by the mental and physical training provided to them," to the 1987 study on the impact of participation in the school breakfast program in Lawrence, Massachusetts, which found that achievement test scores improved when children participated in the program, researchers have found a direct correlation between nutrition and academic achievement.

A study by the Food Research and Action Center, commissioned by NEA, points out that undernourished children are less physically active, less attentive, and less independent and curious. They are more anxious and less responsive socially, and they cannot concentrate as well. As a result, their reading ability, verbal skills, and motor skills suffer.

The importance of nutrition begins in the womb. Given the inextricable link between adequate nutrition and intellectual development, an investment in feeding programs for pregnant women lessens the need for costly remedial programs. In the same way, feeding programs for preschool children—when the body and mind are developing at their fastest rates—are essential to meaningful educational opportunity.

Nationwide, there are tremendous gaps in Federal nutrition programs. Only 40 percent of those eligible for the Supplemental Feeding Program for Women, Infants, and Children (WIC) are served, and a significant number of families eligible for food stamps are not currently participating. Half of all food stamp participants are children. The gap between need and available resources is even more marked in Puerto Rico.

Prior to 1982, Puerto Ricans were treated like all other American citizens under the Food Stamp Program. However, in 1982 the Reagan administration successfully advocated termination of the Food Stamp Program for Puerto Rico. Food stamps were replaced with the Nutrition Assistance Block Grant Program, or NAP.

From 1982 through 1985, NAP was funded at a grossly inadequate level—$825 million—an immediate cut of 25 percent from the level of support previously available to Puerto Rico through food stamps. As a result some 113,000 needy families lost nutrition assistance. Subsequently, the Food Security Act of 1985 provided for annual inflation-based adjustments in NAP's authorization level, such that the fiscal year 1989 authorization level was $936 million. But even at $936 million, both the level of assistance and the number of assisted families are still far below what they would have been under the Food Stamp Program.

The benefits under NAP are approximately 30 percent below what they would have been under the Food Stamp Program. The Congressional Budget Office estimates it would cost an additional $700 million to bridge the gap between the current capped block grant and the resources necessary to serve eligible families under food stamps.

A hungry child in Puerto Rico is as vulnerable as a hungry child in Kansas. But in Puerto Rico, thousands of deprived children remain hungry because their fami-

lies are excluded from help. NAP block grants have been used to keep nutrition assistance to Puerto Rico artificially low, at the expense of disadvantaged Puerto Rican families. Providing the needy families of Puerto Rico with parity is essential.

The effects of moving from food stamps to block grants in Puerto Rico have been devastating. A family of four that would have been eligible for $300 per month in food stamps can only receive $199 per month under NAP. And yet, food costs are 12 percent higher in Puerto Rico than in the United States as a whole.

Despite economic advances during the 1950's and 1960's, Puerto Rico remains the poorest jurisdiction in the United States. The poverty rate there is 62 percent, and the average per capita income in Puerto Rico is $5,500 annually—one-third of the U.S. average and only half that of the poorest State.

Yet in spite of the dire economic problems faced by the people of Puerto Rico, the Commonwealth has been able to participate in such programs as Aid to Families with Dependent Children, Medicaid and Medicare only to a limited extent. Poor families in Puerto Rico are among the poorest of our Nation's poor. But they are not allowed even the most minimal components of the social safety net. To compound this reality with a grossly inadequate Nutrition Assistance Program is intolerable.

The 3.5 million people who live in Puerto Rico are American citizens, they deserve the same rights of all American citizens. Indeed, the citizens of Guam and the U.S. Virgin Islands are full participants in the Food Stamp Program.

We trust that, as you examine the nourishment needs of the Puerto Rican poor, you will agree that parity is long overdue. Meeting the nutritional needs of disadvantaged Puerto Ricans is essential now, and it is no less essential whether enhanced commonwealth or statehood prevails in the plebiscite process to be established by Congress.

A child who is hungry cannot learn. A father who cannot feed his family, becomes desperate. We are dealing with a vicious and destructive cycle of neglect and despair. We call on this committee to take immediate action to expand educational opportunity and to extend basic justice to the disadvantaged families of Puerto Rico.

Thank you.

INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, DC, November 9, 1989.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC 20510.

DEAR MR. CHAIRMAN: The UAW has strongly supported the Food Stamp Program since that program's inception, and we continue to do so. We are writing now to express our views on Federal nutrition assistance in the Commonwealth of Puerto Rico.

We support parity in nutrition assistance for Puerto Rico. Before 1982, Puerto Ricans were treated like other American citizens under the Food Stamp Program. The Reagan administration had successfully advocated termination of the program for Puerto Rico. Food stamps were replaced with the Nutrition Assistance Block Grant Program (NAP).

From 1982 through 1985, NAP was funded at a level of $825 million, a cut of 25 percent from the level of support Puerto Rico would have received from food stamps. As a result, approximately 113,000 needy families lost their nutrition assistance. Subsequently, the Food Security Act of 1985 provided for annual inflation-based adjustments in NAP's authorization level; the fiscal 1989 authorization level was $936 million. But even at $936 million, both the level of assistance and the number of assisted families are still far below what they would have been under the Food Stamp Program. The Congressional Budget Office estimates the gap between equitable funding for Puerto Rico and the current NAP cap at $700 million.

Benefits under NAP have been about 30 percent below what they would have been under the Food Stamp Program. A family of four that would have been eligible for $300 per month in food stamps receives only $199 a month under NAP. At the same time, food costs are 12 percent higher in Puerto Rico than in the United States as a whole. This obviously exacerbates the problem further.

Despite economic advances during the 1950's and 1960's, Puerto Rico remains the poorest jurisdiction in the United States: the poverty rate there is 62 percent, and the average per capita income in Puerto Rico is $5,500 annually—one-third of the U.S. average and only half that of the poorest State.

The citizens of the Commonwealth of Puerto Rico have the same needs for adequate nourishment as other human beings. We cannot understand why nutrition assistance should be less for people in Puerto Rico than elsewhere in the Nation. The citizens of Guam and the U.S. Virgin Islands are full participants in the Food Stamp Program.

Recipients of nutrition assistance in Puerto Rico may prefer cash payments under NAP as opposed to coupons under the Food Stamp Program. But we believe that distinction provides no basis for denying parity in assistance between the poor families in the Commonwealth and those elsewhere. We hope that, as you examine the nutritional needs of the Puerto Rican poor, you will agree that parity is long overdue.

Finally, we believe parity is essential now. You are examining this issue in the context of S. 712, the bill to provide a referendum on the political status of Puerto Rico. But parity in Federal nutrition assistance is appropriate under Puerto Rico's present governmental status. We believe parity should be the reality regardless of its status.

We request that this letter outlining the UAW position on the issue of nutrition assistance to the people of Puerto Rico be included as part of your hearing record on S. 712. Thank you for your consideration of our views.

Sincerely,

DICK WARDEN,
Legislative Director.

36-521 0 - 91 - 4

II

101ST CONGRESS
2D SESSION

S. 712

[Report No. 101–120]

[Report No. 101–481]

To provide for a referendum on the political status of Puerto Rico.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, JANUARY 3), 1989

Mr. JOHNSTON (for himself, Mr. MCCLURE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 6, 1989

Reported by Mr. JOHNSTON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 26 (legislative day, SEPTEMBER 18), 1989

Ordered, jointly referred to the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry, for the consideration of matters within their respective jurisdictions, with instructions that if either committee has not reported the legislation by the close of business November 1, that the majority leader, after consultation with the Republican leader, be authorized to order the bill discharged from either or both of the committees which have failed to report

SEPTEMBER 28 (legislative day, SEPTEMBER 10), 1990

Ordered, that the Finance Committee be authorized to report the bill S. 712, that the Committee on Agriculture be discharged from further consideration of the bill, and that the bill, as reported, be then sequentially referred to the Committee on Agriculture, and that the majority leader, after consultation with the Republican leader, be authorized to order the bill discharged from the Committee on Agriculture at any time

SEPTEMBER 30 (legislative day, SEPTEMBER 10), 1990

Reported by Mr. BENTSEN, with amendments

[Omit the part enclosed in boldface brackets and insert the part printed in boldface italic]

SEPTEMBER 30 (legislative day, SEPTEMBER 10), 1990
Referred to the Committee on Agriculture, Nutrition, and Forestry pursuant to the order of September 28, 1990

A BILL

To provide for a referendum on the political status of Puerto Rico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~That—~~

~~(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and~~

~~(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.~~

~~TITLE I~~

~~SEC. 2. REFERENDUM.~~

~~(a) IN GENERAL.—An island-wide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico as follows:~~

~~(1) statehood;~~

(2) independence; or

(3) commonwealth

as set forth in titles II, III, and IV of this Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on ; 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on ; 1991, or on a date as may be mutually agreed by the three principal political parties, and during the summer of calendar year 1991, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico shall apply to the referendum held under this Act.

(e) Upon the effective date of this Act, the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect in accordance with the appropriate title of this Act.

TITLE II—STATEHOOD

Whereas: Upon admission as a State, Puerto Rico would cease being a territory of the United States.

Whereas: The Commonwealth of Puerto Rico would be admitted as a sovereign State of the Union, with its current Constitution, on an equal footing and in true permanent union with the other fifty States.

Whereas: The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico; in Spanish it shall be known as "Estado Soberano de Puerto Rico".

Whereas: Admission to the Union has historically been a flexible and varied process which has been adapted to the individual circumstances of each new State.

Whereas: Congress, has the constitutional power to facilitate the admission of new States.

Whereas Congress is willing to provide for a smooth process of adjustment from the tax structure of the territorial status to the Federal fiscal system.

Whereas: The Commonwealth of Puerto Rico assured of its reserved state right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its particular cultural characteristics.

Whereas: Statehood creates the only permanent union with the United States that is consistent with the "more perfect union" of equal States established by the United States Constitution.

Whereas: Statehood entails fundamental political and economic betterment for the Commonwealth of Puerto Rico.

Whereas: Statehood entails economic self-reliance and social justice, including parity for its residents in those aspects of Federal legislation that cover the residents of the several States.

Whereas: Statehood means political equality, and, specifically, the right to participate in the process of election of the President and Vice-President of the United States as well as the right to elect two United States Senators and the corresponding number of Members of the United States House of Representatives.

Whereas: Statehood means that all benefits and protections of the United States Constitution would be fully bestowed on the People of the Commonwealth of Puerto Rico

together with the guarantee of full protection by the Federal judicial system.

Whereas: Statehood entails the immediate full extension of Federal entitlements and legislation providing parity for the residents of Puerto Rico in all Federal programs.

Whereas: The Commonwealth will assume all responsibilities of a State of the Union.

Whereas: Statehood is a political formula recognized by the international community through Resolution 1541 (XV) of the General Assembly of the United Nations and through Resolution 1469 (XIV) of that body, which was adopted upon the admission of the new States of Alaska and Hawaii.

Whereas: Statehood embodies the highest degree of autonomy and sovereignty in a true permanent union with the several States.

Therefore: *Be it resolved:*

SEC. 2. Subject to the provisions of this Act, and upon issuance of the proclamation required by section 7 of this Act, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") is declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, in compliance with the democratic mandate of the plebiscite held on for the resolution of Puerto Rico's final political status. The Constitution adopted by a vote of the

People of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the 82nd Congress, March 3, 1952.

CONSTITUTION

SEC. 3. The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The current Constitution of the Commonwealth of Puerto Rico is hereby accepted as the constitution of the State.

TERRITORY AND BOUNDARIES

SEC. 4. Subject to the provisions of this section, the State shall consist of all of the territory, together with the territorial waters, of the Commonwealth of Puerto Rico.

STATE TITLE TO LANDS AND PROPERTY

SEC. 5. (a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Com-

monwealth of Puerto Rico, shall remain the property of the United States; except that the Commonwealth of Puerto Rico (the State) shall have the exclusive right to explore, exploit, lease, possess and use all seabed, natural, and mineral resources lying within the two hundred mile economic zone continental shelf boundary around the waters of the Archipelago of Puerto Rico; however, all other rights of sovereignty in regards to the continental shelf and waters, shall belong to the United States except those already vested in Puerto Rico.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the need for such land or property. If the President determines that any such land or property is no longer needed by the Federal Government, it shall be forthwith conveyed to the Commonwealth of Puerto Rico.

(d) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section or reserving the right to alter, amend, or repeal laws relating thereto, shall

cease to be effective upon the admission of the State into the Union.

COMPACT WITH THE UNITED STATES: CLAIMS TO FEDERAL LANDS AND PROPERTY

SEC. 6. (a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

(d) Nothwithstanding any other provisions of this Act or any other provision of law, in compensation for the lands now

held by the United States, the Congress shall appropriate Federal payments to be assigned to the Commonwealth of Puerto Rico, in the amount of annually, during the next years, for the sole purpose of assisting the State in the payment of its present public debt and liabilities.

ELECTIONS AND ADMISSION REFERENDUM

SEC. 7. (a)(1) Not more than sixty days after the date of certification by the Governor of the Commonwealth of Puerto Rico as provided by this Act, the President of the United States shall certify the admission of Puerto Rico into the Union to the Governor of the Commonwealth of Puerto Rico. Not more than thirty days after such certification, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and the corresponding number of the United States Representatives in Congress as provided in this Act. The Governor of the State shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House so elected.

(2) In the first election of Senators from the State (pursuant to section 7(a)(1)) the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senatorial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) Election returns shall be made and certified in such manner as provided by the electoral laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The constitution of the Commonwealth of Puerto Rico, ratified by the people at the referendum held on June 4, 1951, shall become the Constitution of the State of Puerto Rico. The new State of Puerto Rico shall be known as The Commonwealth of Puerto Rico.

(3) Any legal dispute or controversy arising out of the electoral processes conducted under this act shall be adjudicated by the United States District Court for the District of Puerto Rico, and the Appellate Federal Court System. The Courts of the Commonwealth of Puerto Rico shall not have jurisdiction to entertain any suit, appeal, writ of revision or

legal action, arising out of these elections, plebiscites and referendums.

(4) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices. Upon the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union, the officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the States, as provided by the constitution and laws of the State.

SEC. 8. The Commonwealth of Puerto Rico upon its admission into the Union shall be entitled to Representatives, until the taking effect of the next reapportionment, and such Representatives shall be in addition to the membership of the House of Representatives as now prescribed by law.

LAWS IN EFFECT

SEC. 9. Upon admission of the Commonwealth of Puerto Rico into the Union, all of the territorial laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, until amended, modified or repealed by the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States.

CONTINUATION OF SUITS

SEC. 10. (a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropiate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished

by the appropriate courts of the State, and any such criminal offenses as shall been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

APPEALS

SEC. 11. Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same

jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

MILITARY LANDS

SEC. 12. (a) Subject to the subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of lands as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the ab-

sence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

UNITED STATES NATIONALITY

SEC. 13. No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

REPEAL AND AMENDMENT OF INCONSISTENT LAWS

SEC. 14. All Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the Legislature of the Commonwealth of Puerto Rico or by Congress, are hereby repealed or amended to conform with the provisions of this Act.

NATIONAL FEDERAL LANDS AREA

SEC. 15. (a) The Federal Lands reserved for the United States Government referred to in section 4 are those now held by the Federal Government.

ECONOMIC ADJUSTMENT FROM TERRITORY TO STATE

SEC. 16. Congress adopts the following economic provisions to expedite the adjustment of the Commonwealth of Puerto Rico from the tax structure of the territory to the fiscal and economic system of the State.

(a) Provisions of the Internal Revenue Code concerning Federal Income Taxes shall immediately apply to Puerto Rico, provided that the proceeds of said taxes shall be transferred to the Treasury of Puerto Rico in an amount to be diminished by percent of the monies collected each year for a year period. Existing income tax laws of the Commonwealth shall stand repealed upon admission of the State.

(b) Provision shall be made by Congress so that economic and fiscal exceptions of the Internal Revenue Code, already granted, such as those allowed under section 936 of said code, shall remain in full effect for years and will be smoothly and gradually phased out thereafter, in such a way as to eliminate the prevalent uncertainty which impairs an orderly planning and which impedes the fulfillment of the job creation requirements for such credit, thus promoting investments

and higher rate of employment, which will in turn reduce governmental and individual dependence while enhancing the economy of the State and the fiscal soundness of its government.

(c) Pursuant to Congress, powers under the Constitution, an omnibus act with multiple provisions shall be enacted to ensure that the people of Puerto Rico attain equal social and economic opportunities with the residents of the several States. Said omnibus act shall also provide for measures necessary to assure appropriate continuity in the treatment given to Puerto Rico as a principal coffee producer and in the treatment of alcohol excise taxes; and shall also continue to provide for the transfer to the Treasury of Puerto Rico, for a period of years, of the proceeds of Federal customs and duties levied on imports coming from foreign sources to Puerto Rico.

[Detailed economic provisions, addressing the above proposals among others, will be furnished to the committee as soon as final technical work is completed.]

TERMS AND CONDITIONS

SEC. 17. The Commonwealth of Puerto Rico is assured of its reserved State right under the Constitution to continue to maintain both Spanish and English as its official languages, as well as of its right to preserve and enhance its rich Hispanic cultural heritage. However, all records and

proceedings of all agencies, departments, offices and courts of the United States Federal Government operating in Puerto Rico, shall continue to be conducted and kept in the English language as heretofore. The Commonwealth of Puerto Rico's present Official Languages Act, 1 L.P.R.A. 51–55 (Laws of Puerto Rico, 1902), making Spanish and English official State languages is a State prerogative protected by the Constitution of the United States.

SEC. 18. The State shall never enact any law restricting or abridging the right of suffrage on account of race, color, previous condition of servitude, or ability to read, write, speak, and understand any language sufficiently; and the rights, privileges and immunities of citizens of the United States shall be respected in Puerto Rico according to the provisions of paragraph 1 section 2 of article IV of the Constitution of the United States.

TITLE III—INDEPENDENCE

SUBTITLE 1—STATEMENT OF PURPOSES

First: The United States hereby recognizes that Puerto Rico is historically, socially and culturally a Latin American nation which has been under the sovereignty of the United States since 1898.

Second: The United States recognizes Puerto Rico's inalienable right to independence.

Third: In order to best promote Puerto Rico's development according to its needs and resources and within the framework of present day interdependence, the United States recognizes Puerto Rico's sovereignty as a means to provide Puerto Rico with the political powers and the flexibility necessary to achieve this objective.

Fourth: In order to insure lasting friendship, equitable economic relations, and the gradual elimination of the burden which Puerto Rico's extreme economic dependence represents for both nations, the United States declares its intention to guarantee all necessary conditions for a rational and mutually advantageous transition before and after independence.

Fifth: It is the purpose of this title to recognize the independence of Puerto Rico as a sovereign and democratic nation, to provide the conditions necessary for an orderly transition from the present status to independence, and to guarantee the legitimate interests of both Puerto Rico and the United States.

SUBTITLE 2—TRANSITION PROCESS PRIOR TO PROCLAMATION OF INDEPENDENCE

SEC. 2.1. CONSTITUTIONAL CONVENTION.

(a) Should the results of the referendum provided for in title I of this Act favor independence as a status alternative for Puerto Rico, the Legislative Assembly of the Common-

~~wealth of Puerto Rico shall provide for the election of delegates to a Constitutional Convention to formulate and draft a Constitution for the Republic of Puerto Rico. The election of delegates must by held within six months after the celebration of the aforementioned referendum.~~

~~(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be: (1) all persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; and (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.~~

~~(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.~~

~~(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.~~

~~(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the~~

United States by Spain by virtue of the Treaty of Paris the 10th day of December 1898.

SEC. 2.2. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a Constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned Constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment.

SEC. 2.3. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution elaborated by the Constitutional Convention shall be sumitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution elaborated by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Consti-

~~tution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico.~~

~~(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 2.1 of this title.~~

~~SEC. 2.4. ELECTION OF OFFICERS OF THE REPUBLIC.~~

~~(a) Within thirty days of the ratification of the Constitution as provided for by section 1.3 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.~~

~~(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.~~

~~(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.~~

~~(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.~~

~~SEC. 2.5. JOINT TRANSITION COMMISSION.~~

~~(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Constitutional Convention of Puerto Rico as soon as the fa-~~

vorable results for the independence option in the referendum provided for in title I of this Act are announced.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation.

(c) Any necessary task forces under the aegis of the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall collaborate with the Joint Transition Commission and subsequently with the new officers of the Republic of Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) All members representing the Puerto Rican side on the Joint Transition Commission or on any task force shall be bona-fide supporters of Puerto Rican independence.

SEC. 2.6 RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

(a) From the date of the referendum provided for in title I of this Act, and until the date of proclamation of independence, the Supreme Court and all inferior courts of the United

States shall have no jurisdiction over any case or controversy arising from the operation of this Act.

(b) Any question arising from the operation of this Act shall be referred to the Joint Transition Commission established in section 2.5 for disposition through negotiation. Should the Commission be unable to reach a negotiated solution to a question, it shall submit all points in question to international arbitration.

SUBTITLE 3—PROCLAMATION OF INDEPENDENCE

SEC. 3.1. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 2.4, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the People of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and recognition of independence shall be the

same as the date of the proclamation of independence, as provided in subsection (c).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring: (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SUBTITLE 4—EFFECTS OF THE PROCLAMATION OF INDEPENDENCE

SEC. 4.1. ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in this subtitle, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest ipso facto on the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring

them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with the new legislation: *Provided,* That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 4.2. ON JUDICIAL PRONOUNCEMENTS.

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in

the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: *Provided,* That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SUBTITLE 5—TRANSITION ASPECTS SUBSEQUENT TO PROCLAMATION OF INDEPENDENCE

SEC. 5.1. CITIZENSHIP AND MIGRATION.

(a) Every person who, having been born in Puerto Rico, is on proclamation of independence a citizen of the United States and a resident of Puerto Rico, shall become a citizen of the Republic of Puerto Rico on that date.

(b) Every person born in Puerto Rico after proclamation of independence, and subject to the jurisdiction thereof, shall be a citizen of the Republic of Puerto Rico.

(c) Every person born in Puerto Rico but not a resident thereof on proclamation of independence shall become a citizen of the Republic of Puerto Rico upon residing for six months and taking the oath of allegiance.

(d) Every person not born in Puerto Rico before or after proclamation of independence, and residing therein, shall

become a citizen of the Republic of Puerto Rico if either of his parents becomes a citizen of the Republic of Puerto Rico pursuant to subsections (a), (b), and (c).

(e) Every person not born in Puerto Rico but married to a citizen of the Republic of Puerto Rico before or after proclamation of independence shall become a citizen of the Republic upon residing in Puerto Rico for six months and taking the oath of allegiance.

(f) All other persons not specified in subsections (a), (b), (c), (d), and (e) but residing in Puerto Rico shall be granted citizenship in accordance with the Constitution and laws of the Republic.

(g)(1) Every person who is a citizen of the United States and a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f) shall retain his United States citizenship and all rights, privileges, benefits and obligations pertaining thereto in an equal footing with all other United States citizens: *Provided*, That while residing in Puerto Rico that person shall not be subject under United States laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the Republic of Puerto Rico.

(2) Every person specified in subsection (g)(1) shall retain his Puerto Rican citizenship and all rights, privileges and benefits pertaining thereto in an equal footing with all

other Puerto Rican citizens, and shall retain all of his obligations as a Puerto Rican citizen, except that while residing in the United States that person shall not be subject under Puerto Rican laws to compulsory military registration and service or to any other condition or obligation contrary to the sovereignty of the United States.

(h) Every citizen of the United States who becomes a citizen of the Republic of Puerto Rico in accordance with subsections (a), (b), (c), (d), (e), and (f), can elect: (1) to relinquish his United States citizenship in accordance with United States laws; or (2) to relinquish his Puerto Rican citizenship in accordance with the laws of the Republic.

(i) United States citizens residing in Puerto Rico, but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in Puerto Rico but shall not be eligible for political office and shall not be entitled to vote. They shall also be entitled to be naturalized as citizens of the Republic in accordance with nondiscriminatory laws of the Republic.

(j) Citizens of the Republic of Puerto Rico residing in the United States but not citizens thereof shall be entitled to the fundamental rights and freedoms accorded to all persons in the United States but shall not be eligible for political office and shall not be entitled to vote in the United States. They shall also be entitled to be naturalized as citizens of the

United States in accordance with nondiscriminatory laws of the United States.

(k) Citizens of the Republica of Puerto Rico who are not United States citizens may, for a period of twenty-five years after proclamation of independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States. These immigrants may be subject to nondiscriminatory limitations as provided for by laws and regulations of the United States.

(l) Every resident of the United States born in Puerto Rico but not a citizen thereof, and his sons and daughters, may enter into, lawfully engage in occupations, and establish residence as immigrants in Puerto Rico subject to nondiscriminatory laws and regulations of the Republic.

(m) Every person lawfully admitted for permanent residence within the United States and who is a resident of Puerto Rico on proclamation of independence shall continue as resident and shall be entitled to be naturalized as citizen of the Republic of Puerto Rico in accordance with nondiscriminatory laws of the Republic.

SEC. 5.2. DEFENSE.

(a) The UnitedStates shall collaborate with the Republic of Puerto Rico toward the ultimate goal of disarmament, peace, and international relations based on the principles of equality, mutual respect and interdependence. Furthermore,

the United States recognizes the right of the People of Puerto Rico to strive toward the total demilitarization of its territory, with the purpose of gearing all its efforts and resources to the goals of economic and social development.

(b) The Republic of Puerto Rico shall be closed to any and all military forces of foreign nations. In furtherance of this policy, and to expedite the orderly and gradual transfer of properties presently under the control of the United States for military purposes in Puerto Rico, the Governments of the United States and the Republic of Puerto Rico shall subscribe a separate agreement for a reasonable and mutually convenient period of transition.

(c) Negotiations leading to the eventual agreement provided in paragraph (b) shall begin in a special task force designated for such purposes by the President of the United States and the Constitutional Convention of Puerto Rico pursuant to section 2.5 of this title. Should this special task force be unable to reach an agreement prior to the proclamation of independence, the negotiations shall continue between representatives appointed by the United States and the Republic of Puerto Rico, until such time as an agreement may be reached.

(d) The Republic of Puerto Rico shall be a nuclear free zone. The United States and the Republic of Puerto Rico shall adhere and fully comply with the provisions of the

~~Treaty for the Proscription of Nuclear Weapons in Latin America of 1967 (Treaty of Tlatelolco).~~

~~(c) The Government of the Republic of Puerto Rico shall, as soon as may be practicable, seek integration into the Inter-American defense system by subscribing the provisions of the Treaty of Mutual Defense of 1948 (Treaty of Rio de Janeiro).~~

~~SEC. 5.3. TRADE RELATIONS.~~

~~(a) Until proclamation of independence: (1) no trade barriers or quotas of any kind shall be imposed on merchandise and articles going into Puerto Rico from the United States or coming into the United States from Puerto Rico; and (2) trade relations shall be as currently provided by law.~~

~~(b) during the twenty years following the proclamation of independence, the United States shall not impose trade barriers or quotas of any kind on merchandise and articles coming into the United States from the Republic of Puerto Rico.~~

~~SEC. 5.4. TAXATION.~~

~~(a) The tax credit currently allowed under section 936 of the United States Internal Revenue Code shall remain in full effect upon proclamation of independence and during the fifteen years thereafter with respect to income derived by corporations that begin to fulfill or continue to fulfill the current requirements for such credit.~~

~~(b) On the tenth year after proclamation of independence, a Joint Commission on Taxation shall be appointed in equal numbers by the President of the United States and the head of state of the Republic of Puerto Rico to study and report on changes to be made, if any, to the tax credit allowed under subsection (a) at the expiration of the fifteen-year period. If no agreement is reached with respect to such changes, then all earning repatriations received by residents of the United States shall be subject to taxation by the United States, beginning on the sixteenth year after the proclamation of independence, at a rate that shall increase on a straight-line basis by 10 percent of the regular United States corporate tax rate each year until it reaches 100 percent of said regular rate in the twenty-fifth year after the proclamation of independence, provided that a tax credit will be allowed on such earning repatriations pursuant to subsection (c). If the regular corporate tax rate of the United States is changed before said twenty-fifth year, the difference between the rate to which the earning repatriations are subject during the year of said change and the new regular rate shall be divided, if the latter is higher, by the number of years remaining from the year which follows the year of said change until said twenty-fifth year, and the result of such division shall constitute the extent to which the rate applicable to the dividends shall increase every year from the year which fol-~~

lows the year of said change until said twenty-fifth year. If the new regular United States corporate tax rate is lower than the rate to which the earning repatriations are subject during the year of said change, then the new lower rate shall immediately apply to such repatriations. No other change shall occur before the expiration of said twenty-fifth year with respect to income derived by companies subject to this subsection.

(c) With respect to income not subject to subsections (a) or (b), the profits of an enterprise of either nation shall be taxable only on the nation of residence of said enterprise, unless the enterprise carrier on business in the other nation through a permanent establishment situated therein. If the enterprise carriers on business as aforesaid, the profits of the enterprise may be taxed in the other nation but only so much of them as is attributable to that permanent establishment.

(d) Each nation shall have taxing jurisdiction over income earned by individuals who are residents of either nation from sources within its territorial jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein.

(e) Where a resident of either nation derives income from the other nation, the amount of tax payable in that other nation in respect to that income pursuant subsections (c) and (d), and the amount of tax payable in the Republic of

Puerto Rico that does not exceed for any specific year the amount of tax payable in the United States for that same year pursuant to subsection (b), shall be allowed as a credit against the tax payable in respect to that income in the nation of residence of the taxpayer. A withholding tax on dividends shall be considered a tax on income for these purposes. If the United States amend its laws concerning the provision of tax sparing credits or if the United States reaches an agreement on the provision of a tax sparing credit with any other nation, Puerto Rico shall ipso facto be granted the most favorable degree of tax sparing credit allowed under such amended laws or under such agreement or agreements.

(f) The determination under this section of the residence of any taxpayer, the source of any income, the situs of any property or any other necessary definitions shall be made according to the terms of a joint treaty for the avoidance of double taxation to be entered into by both nations promptly upon the proclamation of the Republic of Puerto Rico. Negotiations leading to such treaty shall be initiated by a special task force designated pursuant to section 2.5 of this title. Until such treaty is executed, such determination shall be made according to the current tax laws of the United States and the Commonwealth of Puerto Rico.

~~SEC. 5.5 CURRENCY AND FINANCE.~~

~~(a) After proclamation of independence, the Republic of Puerto Rico shall have all powers concerning the issuance and control of currency and all powers concerning monetary and financial matters, provided that during the ten years following the proclamation of independence both United States currency and Puerto Rican currency shall be accepted as legal tender in all transactions in Puerto Rico.~~

~~(b) The current value of all stock bought by Puerto Rican banks in the Federal Reserve System, Federal Deposit Insurance Corporation and the Federal Home Loan Bank System will be transferred to the Republic of Puerto Rico, including the proportion held by United States national, Spanish and Canadian banks that correspond to the level of their activities of its branches operating in Puerto Rico during the year immediately prior to the proclamation of independence.~~

~~(c) The monetary authority of the Republic of Puerto Rico shall establish an integrated system of insurance for deposits in Puerto Rico's financial institutions similar to the Federal Deposit Insurance Corporation. Negotiations will be undertaken with United States monetary authorities to obtain their assistance in the design and establishment of the insurance system, and to determine the extent of financial support to be provided for the system by United States insurance~~

~~organizations in which Puerto Rico's financial institutions currently participate.~~

~~(d)(1) The guarantees provided by the Government of the United States to investors in the secondary market for loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (G.N.M.A.), the Federal National Mortgage Association (F.N.M.A.), the Federal Home Loan Mortgage Corporation (F.H.L.M.) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans until maturity.~~

~~(2) Negotiations shall be carried out to ensure that after proclamation of independence Puerto Rico-originated loans, particularly housing mortage loans, can continue to be guaranteed by G.N.M.A., F.N.M.A., F.H.L.M. and other United States Government instrumentalities and can continue to be sold to investors in the United States secondary markets.~~

~~SEC. 5.6. PUBLIC DEBT.~~

~~(a) The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumentalities, valid and outstanding upon proclamation of independence, shall be assumed by the Republic of Puerto Rico.~~

~~(b) After proclamation of independence the United States shall maintain full income tax exemption, as currently provided by law, on interest payments derived from debts of~~

the Commonwealth of Puerto Rico assumed by the Republic, as specified in subsection (a).

(c) During the twenty-five years following the proclamation of independence, the United States shall extend full income tax exemption, as currently provided by law, to interest payments derived from debts of the Republic of Puerto Rico.

SEC. 5.7. INDIVIDUAL RIGHTS TO ECONOMIC BENEFITS AND GRANTS TO THE REPUBLIC OF PUERTO RICO.

(a) All vested rights and benefits which accrue to residents of the Commonwealth of Puerto Rico under the laws of the United States from past services or contributions, such as rights and benefits for veterans or relatives of veterans of the Armed Forces of the United States, retired Government employees, or beneficiaries of old age, disability of survivors' insurance benefits under the Social Security Act, shall not be interrupted after the proclamation of independence but will continue until such time as said rights and benefits are completely extinguished according to the applicable laws of the United States. All services which must be rendered as part of these rights and benefits shall be made available through the Government of the Republic of Puerto Rico in accordance with agreements reached by the two nations.

(b) Notwithstanding the provisions in subsection (a), all contributions made by employees and employers in Puerto

~~Rico to the Social Security System with respect to persons who, upon the proclamation of independence, are residents of the Republic of Puerto Rico and are not yet eligible for old age, disability, or survivors' insurance benefits under the system, shall be transferred to the Government of the Republic of Puerto Rico once said Government establishes its own social security system. The Government of the Republic of Puerto Rico may not use these funds for any purpose other than the establishment and operation of a social security system. Upon the transfer described herein, the obligations of the United States Government under the Social Security Act with respect to such residents of the Republic of Puerto Rico shall cease.~~

~~(c) All other Federal transfer payments to individuals and to the Government of the Commonwealth of Puerto Rico shall be maintained in the form of annual block grants to be used discretionally by the Government of the Republic of Puerto Rico—~~

~~(1) During the ten fiscal years following the proclamation of independence, the annual block grants shall amount to the annual aggregate funding of all programs which currently extend to the Commonwealth of Puerto Rico, or of all programs which shall have been extended to the Commonwealth of Puerto Rico during~~

the fiscal year immediately prior to the proclamation of independence, whichever shall be greater.

(2) The annual block grants shall decrease thereafter on a straight-line basis, at the rate of ten percent each year, beginning on the eleventh fiscal year after the proclamation of independence. At any time during the aforementioned transition period the terms of this subsection may be modified by agreement between the United States and the Republic of Puerto Rico.

SUBTITLE 6—RELATIONS BETWEEN THE UNITED STATES AND THE REPUBLIC OF PUERTO RICO

SEC. 6.1. TREATY OF FRIENDSHIP AND COOPERATION.

To insure that all provisions of this title which shall have effect after the proclamation of independence will in effect be binding, the United States and the Republic of Puerto Rico shall embody said provisions in a treaty of friendship and cooperation.

TITLE IV—COMMONWEALTH

SUBPART 1. STATEMENT OF PURPOSES

In 1952 the Congress of the United States, fully recognizing the principle of government by consent, and the People of Puerto Rico, in the exercise of their right to self-determination, entered upon a compact which established a Commonwealth relationship between Puerto Rico and the United States.

Under the compact the People of Puerto Rico adopted in their own sovereign right their own Constitution and formed an autonomous political community in permanent union with the United States of America based on the irreversible bond of American citizenship.

In 1953 the General Assembly of the United Nations recognized the creation of the Commonwealth and removed Puerto Rico from the list of non-self-governing territories. This association has enabled the People of Puerto Rico to advance their economic and social development and to preserve their distinct historical heritage and cultural personality.

As inherent in all political relationships freely entered upon, it was based on the understanding that it would evole and develop within its particular political nature upon mutually agreeable terms.

It is the purpose of this Act to provide for the enhancement of the Commonwealth relationship by enlarging the scope of self-government of the Puerto Rican people upon the approval of a proposition to that effect by a majority of the eligible voters of the Commonwealth of Puerto Rico.

~~SUBPART 2. REFERENDUM PROPOSITION: COMMONWEALTH~~

~~The referendum proposition regarding Commonwealth, to be presented to, and voted upon, by the People of Puerto Rico shall be as follows:~~

~~"The Commonwealth association with the United States shall be enhanced to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States based on the irreversible bond of American citizenship, a common defense, a common market, and a common currency."~~

~~The proposition will appear in the ballot, in Spanish, as follows:~~

~~"El Estado Libre Asociado se fortalecerá para acelerar el desarrollo económico y social y alcanzar la máxima autonomía cultural y política del pueblo de Puerto Rico en su unión permanente con los Estados Unidos sobre los pilares de común defensa, común mercado, común moneda, y el vínculo indisoluble de la ciudadanía americana."~~

~~SUBPART 3. PRINCIPLES OF COMMONWEALTH~~

~~Section 1 of the Puerto Rico Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. section 731, shall be repealed, and replaced by the following:~~

"(1) The provisions of this Act shall apply to the Commonwealth of Puerto Rico, an autonomous body politic joined in permanent union with the United States on the basis of common citizenship, common defense, common market and common currency.

(2) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the People of Puerto Rico to accelerate their economic and social development and attain maximum cultural and political autonomy within permanent union with the United States, to secure more equitable participation for the People of the Commonwealth of Puerto Rico in all Federal programs that provide grants or services to citizens of the United States as individuals, to secure increased participation by the People of Puerto Rico in United States governmental decisions affecting them, to safeguard the distinct cultural identity of the People of Puerto Rico, and to protect the bilateral nature of the relationship between the Commonwealth of Puerto Rico and the United States.

SUBPART 4. IMPLEMENTATION OF FEDERAL POLICY

Section 9 of the Federal Relations Act, 39 Stat. 954, as amended, 48 U.S.C. section 734, is amended by inserting at

the beginning thereof the term "(a)" and by adding at the end thereof the following:

"(b) A Federal statutory law, or provision of such law, is locally inapplicable unless it is consistent with the policy established under subpart 3 and unless such Federal statutory law has proper regard for the economic, cultural, ecological, geographic, demographic and other local conditions of the Commonwealth of Puerto Rico. This subsection shall not apply to:

(i) any Federal statutory law in which the Congress makes a specific finding that there is an overriding national interest that such law should apply to the Commonwealth of Puerto Rico, or

(ii) any Federal satutory law, or provision thereof, establishing directly or indirectly grants and/or services to civilizen of the United States as individuals, or

(iii) any Federal statutory law or provision thereof relating to citizenship, or

(iv) any Federal statutory law or provision thereof pertaining to the foreign relations, defense or national security of the United States that requires uniform applicability throughout the United States, including the Commonwealth of Puerto Rico, to achieve its intended purposes.

(c) In addition to judicial determinations of the inapplicability of Federal laws under subsection (b), the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, that a Federal statutory law or provision thereof, other than one excluded from the operation of subsection (b), is inconsistent with a Puerto Rican statute and the policy established under subsection (b). Unless within sixty days of the receipt of such certification, a statute is enacted embodying the finding required under subsection (b)(i), the President shall issue a proclamation that such Federal statutory law or provision thereof identified in the Governor's certification is not applicable in Puerto Rico.

(d)(i) The Commonwealth of Puerto Rico may continue to enter in its own name into international cultural, commercial, educational and sports agreements, and other agreements of like nature.

(ii) In addition, the Governor of the Commonwealth of Puerto Rico may take any official action to promote the international interests of Puerto Rico that requires the consent of the United States Government and is not expressly prohibited by law. The Governor of the Commonwealth of Puerto Rico shall provide written notice to the President of the United States of any official action he contemplates

taking pursuant to the authorization of this part of this subsection and not pursuant to any other authorization of consent. The President may, within thirty days of his receipt of such notice, sign and transmit to the Governor of the Commonwealth of Puerto Rico a document expressing his determination that the contemplated official action would imperil the foreign relations or national defense of the United States, in which case the authorization hereby granted shall be withdrawn as regards such contemplated official action.

(c) All departments and agencies of the Government of the United States shall be guided by the policy stated in subpart 3 when carrying out their duties under Federal statutory laws and Federal regulations applicable in or affecting the Commonwealth of Puerto Rico. Every such department or agency shall, before taking any major Federal action applicable in or affecting the Commonwealth of Puerto Rico, separately evaluate the consistency of such action with such policy and shall state, in a document accompanying the major Federal action, the extent, nature, and result of its consideration.

(f) Any rule, as defined in 5 U.S.C. section 551(4), issued by an agency, as defined in 5 U.S.C. section 551(1), shall apply in the Commonwealth of Puerto Rico only to the extent that it is consistent with the policy set forth in subsection (b). After the effective date of this amendment, when any

~~such rule, other than a rule issued after notice and hearing required by statute, that does not in terms provide that it is inapplicable in the Commonwealth of Puerto Rico is published in the Federal Register, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days in writing (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with the policy stated in subsection (b). Thereupon, the agency shall reconsider the question of consistency of the rule with the policy stated in subsection (b) and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either that there is an overriding national interest that the rule be applicable in the Commonwealth of Puerto Rico, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall thereafter be so applicable, or that the rule is not compatible with such policy, in which event such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable. Unless the agency for good cause finds that a rule that is the subject of such determination by the Governor of Puerto Rico as is described in this subsection shall be applicable to the Commonwealth of Puerto Rico pending its consideration of such determination, and publishes such find-~~

ing in the Federal Register, such rule, whether or not previously applicable in the Commonwealth of Puerto Rico, shall not be so applicable pending such consideration. An agency's decision to make a rule applicable or inapplicable in Puerto Rico shall be subcet to judicial review.

(g) The laws, rules and regulations of the United States applicable in the Commonwealth of Puerto Rico when the new Federal policy is established in accordance with subpart 3 shall continue in effect except to the extent repealed or modified by this Act, or inconsistent with it, and except as hereafter modified, suspended or repealed in accordance with law.

SUBPART 5. AVIATION

Section 1102 of the Federal Aviation Act is amended by adding a new section (c) to read as follows:

"(c)(i) The Government of the Commonwealth of Puerto Rico shall have authority to negotiate on its own behalf bilateral air transportation agreements governing the operation of air services by United States and foreign air carriers between the Commonwealth and foreign points. Such agreements may also include authorization of service by United States and foreign air carriers to use any point in the Commonwealth as an intermediate or beyond point on routes between points in the United States and foreign nations for which the carrier holds certificate or foreign air carrier operating authority

from the Department of Transportation. Such agreements may authorize such carriers to engage in common carriage of persons and property between such authorized points in the United States and the Commonwealth, notwithstanding the provisions of sections 416(6)(7) and 1108 of this Act.

"(ii) Operating rights contained in Commonwealth bilateral air transportation agreements shall be subject to the grant of necessary operating authority by the Department of Transportation and the Administrator. The responsibilities of the Department and the Administrator under subsection (a) of this section shall extend to such bilateral agreements.

"(iii) Operating authority issued by the Department of Transportation in implementation of bilateral agreements negotiated by the Government of the Commonwealth of Puerto Rico shall be subject to the President's right of disapproval as contained in section 801(a) of this Act.

"(iv) The officials of the Federal Aviation Administration of the United States are directed to assist and cooperate with the appropriate officials of the Commonwealth of Puerto Rico in the implementation of any air transportation agreement entered into pursuant to the authority herein established.".

SUBPART 6. DEVELOPMENT OF TOURISM

Section 4a(l) of the Coastal Barrier Resources Act of 1982, 16 U.S.C. section 3503(a)(l), is amended by adding to

the end of the subsection: "Notwithstanding the foregoing, no area within the Commonwealth of Puerto Rico shall be included within the Coastal Barrier Resources System.".

SUBPART 7. INTERNATIONAL TRADE

(a) Section 2 of the Act of April 12, 1900, 48 U.S.C. 739, is amended by inserting the following subsection.

"1. To the extent consistent with the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico. Such tariff duties shall be in addition to the general tariff duties applicable to products imported into the customs territory of the United States.".

(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 2902, is amended by adding a new subsection (c) as follows:

"(c) During the negotiation of any trade agreement affecting Puerto Rico under subsections (a), (b), and (c), the President shall seek the participation of the Commonwealth of Puerto Rico in the negotiation process, and shall consult with the Governor of the Commonwealth of Puerto Rico concerning the potential impact of any proposed tariff rate change on the economy of Puerto Rico.

The Government of the United States shall seek to obtain favorable treatment from foreign countries for exports

from the Commonwealth of Puerto Rico and shall encourage other countries to consider Puerto Rico as a developing area for purposes of their respective General Systems of Trade Preferences, and any such regional systems of trade preferences.''.

SUBPART 8. MARITIME

(a) Section 9 of the Puerto Rican Federal Relations Act, 48 U.S.C. section 744, is amended to add at the end of the provision: ''except that those provisions of the Shipping Act, 1916, administered by the Federal Maritime Commission shall not be applicable to the trade between Puerto Rico and the States of the United States. The Commonwealth of Puerto Rico is authorized to establish its own maritime commission which, when established in accordance with Puerto Rico law shall exercise exclusive jurisdiction over service, rates, fares, and practices governing the trade between Puerto Rico and the states of the United States.''

(b) Section 1 of the Shipping Act, 1916, as amended, 46 U.S.C. App. section 801, is amended by inserting after the second ''possession of the United States'' and at the end of the provision, the following phrase: ''not including the Commonwealth of Puerto Rico.''.

~~SUBPART 9. JURISDICTION OVER MARITIME RESOURCES~~

~~(a) Amend section 3(21) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(21) to read as follows:~~

~~"(21) The term 'State' means each of the several States, the District of Columbia, American Samoa, the Virgin Islands, Guam, and any other territory or possession of the United States, but does not include the commonwealth of Puerto Rico.".~~

~~(b) Amend the first sentence of section 2(6) of the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1802(6) to read as follows: "The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983, except that such zone shall not include zones contiguous to the territorial sea of the Commonwealth of Puerto Rico, provided that the Commonwealth of Puerto Rico shall take no action that would purport to restrict or charge fees to vessels of the United States for the right to fish for highly migratory species of fish within any fishing jurisdiction the 'Commonwealth of Puerto Rico may establish beyond its territorial waters.".~~

~~SUBPART 10. INTELLECTUAL PROPERTY~~

~~(a) Section 101 of title 17 of the United States Code is amended as follows:~~

(1) By inserting the following new definitions in alphabetical order:

"The 'design of a useful article,' hereinafter referred to in this Title as a 'design,' consists of those aspects or elements of the article, including its two dimensional or three dimensional features of shape and surface, which make up the appearance of the article, and shall include a 'typeface' as herein defined.

"A design is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such design is fixed in a useful article in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a useful article intended to be distributed to the public for commercial purposes.

"A 'typeface' consists of a set of letters, numbers, or other symbolic characters, whose forms are related by repeating design elements consistently applied in a national system, to the extent that the repeating design elements in the combination employed in a notational system are (A) original, (B) distinct, and (C) incorporated in a

~~useful article whose normal use is in composing text or other cognizable combination of characters.''.~~

~~(2) By adding, after the semicolon in the second sentence of the definition of ''Pictorial, graphic, and sculptural works,'' the following: ''except where a design of Puerto Rican origin is involved,''.~~

~~(b) Section 102 of title 17 of the United States Code is amended by adding a new subsection 102 (a)(8) as follows:~~

~~''(8) designs of useful articles, where such designs are of Puerto Rican origin.''.~~

~~(c) Section 113 of title 17 of the United States Code is amended by adding a new subsection (d) as follows:~~

~~''(d) In the case of a design of Puerto Rican origin, the scope of exclusive rights in a copyrighted work does not extend to a design that is (i) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary; (ii) different from a design excluded by (i) hereof only in insignificant details or in elements which are variants commonly used in the relevant trades; (iii) dictated primarily by a utilitarian function of the article in which it is fixed, (iv) composed of three-dimensional features of shape and surface with respect to men's, women's, and children's apparel; or (v) fixed in a semiconduc-~~

tor chip product that is protected under chapter 9 of this title. Notwithstanding the foregoing, the scope of exclusive rights shall not be limited by the employment in the design of subject matter excluded under (i) through (iii) hereof, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided, however,* That such exclusive rights shall be available for a design employing subject matter protected under chapters 1 through 8 of this title or title 35 of the United States Code, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any rights to subject matter excluded from protection or as extending any subsisting protection.''

(d) Chapter 3 of title 17 of the United States Code is amended by the addition of a new section 306 as follows:

''§ 306. Designs of Puerto Rican origin

(a) The provisions of section 302 through 305 of this chapter shall not apply to copyrights in designs of Puerto Rican origin.

(b) Copyright in a design of Puerto Rican origin subsists from its creation and endures for a period of ten years.

(c) A term of copyright provided by this section shall run to the end of the calendar year in which in would otherwise expire.''.

(c) Section 407 of title 17 of the United States Code is amended by adding the following language before the semicolon in section 401(b)(1): '', or, in the case of a design of Puerto Rican origin, the symbol D (the letter D in a circle), or the words ''Design Copyright,' or the abbreviation 'Des. Copr.'.''.

(f) Section 407 of title 17 of the United States Code is amended by striking the period the end of section 407 (c) and adding the following language: '', or the work is a design of Puerto Rican origin.''.

(g) Section 901 (a) of title 17 of the United States Code is amended by adding a new subsection (10) as follows:

''(10) a mask work is 'of Puerto Rican origin' (a) if more than 50 percent of its development costs have been incurred within the Commonwealth of Puerto Rico, irrespective of whether such mask work is fixed in a computer chip in the Commonwealth of Puerto Rico; or (B) if it is first fixed in the Commonwealth of Puerto Rico in a computer chip intended to be distributed to the public for commercial purposes.''.

(h) Section 906 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(c) The limitations on exclusive rights provided under subsections (a) and (b) of this section shall not apply to mask works of Puerto Rican origin.".

(i) The foregoing sections (a) through (h) shall apply after the date of enactment to all acts of manufacture or distribution that occur in the United States after such date, to all acts of importation into the United States that occur after such date, and to all violations of the exclusive rights of the copyright's owner under of title 17, United States Code that occur after such date.

SUBPART 11. FEDERAL PROGRAMS

(a) CONSOLIDATION OF GRANT-IN-AID PROGRAMS.—The Puerto Rico Federal Relations Act is amended by inserting a new section 59, as follows:

SECTION 59.

In order to minimize the burden caused by existing application and reporting procedures for grant-in-aid programs available to the Commonwealth of Puerto Rico it is hereby declared to be the policy of the Congress, notwithstanding any provision of law to the contrary, that:

"(a) At the request of the Governor of the Commonwealth, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to the Commonwealth under which payments received may be used by the Com-

monwealth only for certain specified purposes (other than direct payments to classes of individuals, including, but not limited to, Aid to Families with Dependent Children, title IV–A of the Social Security Act, 42 U.S.C. 601; Medicaid, title XIX of the Social Security Act, 42 U.S.C. 2396; Supplemental Security Income, title XVI of the Social Security Act, 42 U.S.C. 1381; Foster Care, title IV–E of the Social Security Act, 42 U.S.C. 670; and Nutrition Assistance Program, 7 U.S.C. 2028) shall, acting through appropriate administrative authorities of such department of agency, consolidate any or all grants made to the Commonwealth for any fiscal year or years.

"(b) Any consolidated grant for the Commonwealth shall not be less than the sum of all grants which the Commonwealth would otherwise be entitled to receive for such year.

"(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Commonwealth shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

"(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which the Commonwealth may submit: (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications, and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided,* That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Commonwealth and (ii) waive the requirement that the Commonwealth submit an application or report in writing with respect to any consolidated grant.

(b) EQUITABLE TREATMENT IN SOCIAL PROGRAMS.—The Puerto Rican Federal Relations Act is amended by inserting a new section 60 as follows:

~~"SECTION 60.~~

~~"(a) It is the policy of the United States that the allocations to the Commonwealth of Puerto Rico of the following programs shall achieve full parity with the States of the Union as soon as possible but in no event later than the fifth anniversary of the date of enactment hereof with allocations to States of the Union in the following programs or their successor thereof: Nutrition Assistance Program (NAP); Aid to Families with Dependent Children (AFDC); and Medicaid; and in no event later than the ninth anniversary of the date of enactment hereof with allocations to States of the Union for the Supplemental Security Income (SSI) program, or its successor.".~~

~~SUBPART 12. PROTECTION OF WORKERS~~

~~(a) Amend section 3 of the Labor Management Act, as amended, (29 U.S.C. 153(b)), by adding after the first sentence: "; with the exception of cases arising under the jurisdiction of the Commonwealth of Puerto Rico which are hereby exclusively delegated to the Labor Relations Board of Puerto Rico. Decisions of the Labor Relations Board of Puerto Rico may be appealed to the Federal Court of Appeals for the First Circuit.".~~

~~(b) The Puerto Rican Federal Relations Act is amended by adding a new section 61, as follows:~~

~~"Puerto Rico shall maintain exclusive jurisdiction over employee benefits, other than the benefits currently covered~~

~~under the Fair Labor Standards Act, the Employee Retirement Income Security Act, and the Occupational Safety and Health Act. Puerto Rico's exclusive jurisdiction shall include, but not be limited to Christmas bonuses, sick and vacation pay, worksman's compensation, and any other benefits not covered under the current aforementioned Federal legislation.''.~~

~~SUBPART 13. PUERTO RICO PARTICIPATION IN FEDERAL APPOINTMENTS~~

~~Section 301 of title 3, is amended by inserting at the beginning thereof the term ''(a)'' and by adding at the end thereof the following:~~

~~''(b) The highest ranking Federal officer serving in the Commonwealth of Puerto Rico for any Federal department and agency, or division thereof, and any other appointment in the Commonwealth of Puerto Rico subject to Senate confirmation, shall be appointed by the President from a list of eligible candidates recommended by the Governor of the Commonwealth of Puerto Rico.''.~~

~~SUBPART 14. REPRESENTATION IN UNITED STATES SENATE~~

~~Section 36 of the Puerto Rican Federal Relations Act, 48 U.S.C. section 891–895, is amended as follows:~~

"SUBCHAPTER V. RESIDENT COMMISSIONERS

SECTION 891. RESIDENT COMMISSIONERS; ELECTION.

"The qualified electors of Puerto Rico shall choose a Resident Commissioner to the United States Senate and a Resident Commissioner to the United States House of Representatives at each general election, whose terms of office shall be four years from the 3rd of January following such general election, and who shall be entitled to receive official recognition as such commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of States, of a certificate of election of the Governor of Puerto Rico.

"SECTION 892. QUALIFICATIONS OF COMMISSIONERS; APPOINTMENT TO FILL VACANCY.

"No person shall be eligible to election as a Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. In case of a vacancy in either office of Resident Commissioner by death, resignation, or otherwise, the Governor by and with the advice and consent of the Senate of the Commonwealth of Puerto Rico shall appoint a Resident Commissioner to fill the vacancy, who shall serve until the next general election and until his successor is elected and qualified.

"SECTION 803. SALARY OF COMMISSIONERS; ALLOWANCES; FRANKING PRIVILEGE.

"The Resident Commissioners shall receive a salary payable monthly by the United States. The Resident Commissioners shall be allowed the same sum for stationary and for the pay of necessary clerk hire as is allowed Members of the Senate of the United States and Members of the House of Representatives of the United States. The Resident Commissioners shall be allowed the franking privilege granted Members of Congress.

"SECTION 804. SALARY AND TRAVELING EXPENSES; PAYMENT.

"The salary and traveling expenses of the Resident Commissioners from Puerto Rico to the United States shall be paid in the same manner as the salaries of the Members of the Senate and the House of Representatives are paid.

"SECTION 805. OTHER PRIVILEGES.

"The appropriate sections of title 2 of the United States Codes and any other statutory law that relates to the privileges afforded United States Senators shall be amended to include the Resident Commissioner from the Commonwealth of Puerto Rico to the United States Senate.".

SUBPART 15. JUDICIARY

Section 42 of the Puerto Rico Federal Relations Act, 48 U.S.C. section 864, is amended by deleting the last sentence and inserting the following paragraph:

~~"Notwithstanding any other provision of law:~~

~~"(1) The District Court shall not undertake to construe a theretofore unconstrued Puerto Rico statute or regulation or decide a theretofore undecided point of substantive Puerto Rico nonstatutory law without having given the Supreme Court of Puerto Rico the opportunity to construe such statute or regulation or to rule upon such point of Puerto Rico law.~~

~~"(2) The proceedings of the United States District Court for the District of Puerto Rico shall be conducted in the Spanish language upon the request of any party to the proceedings.~~

~~"(3) Any issue of law arising under the Puerto Rico Federal Relations Act in any action or controversy brought in federal court shall be certified to the District of Columbia Court of Appeals. In addition, the Commonwealth of Puerto Rico, its departments, agencies and instrumentalities, as well as officials and agents, in both their official and personal capacity, may transfer any action brought against them in the District Court for Puerto Rico to the District Court for the District of Columbia.".~~

~~SUBPART 16. PASSPORTS~~

~~(a) Section 211a of title 22, is amended by adding after the provision "by the chief or other executive officer of the~~

insular possessions of the United States,"; "and the Governor of the Commonwealth of Puerto Rico,".

(b) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico and shall authorize the Governor of the commonwealth to administer such office as required by law.".

(c) Section 212 of the Immigration and Nationality Act, 8 U.S.C. section 1182 is amended by adding a new subsection (m) as follows:

"(m) COMMONWEALTH OF PUERTO RICO; WAIVER OF REQUIREMENTS; NONIMMIGRANT VISITORS.—

"(1) The requirement of paragraph 26(B) of subsection (a) of this section shall be waived by the Attorney General upon the request of the Government of the Commonwealth of Puerto Rico, in the case of an alien applying for admission as a nonimmigrant visitor at the invitation of the Government of the Commonwealth and solely for entry into and stay in the Commonwealth of Puerto Rico for a period not to exceed thirty days. The District Office for Puerto Rico of the Immigration and Nationality Service shall issue the

special temporary entry visit visas, as well as other entry visas.

"(2) If adequate appropriated funds to carry out this subsection are not otherwise available, the Director of the Immigration and Nationality Service is authorized to accept from the Government of the Commonwealth of Puerto Rico such funds as may be tendered to cover all or any part of the costs of administration and enforcement of this subsection.".

SUBPART 17. LAW ENFORCEMENT

Section 287 of the Immigration and Nationality Act, 8 U.S.C. section 1357, is amended as follows:

"(a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General, and any officer or employee of and within the Commonwealth of Puerto Rico authorized by the Governor of the Commonwealth of Puerto Rico shall have the power without warrant.".

SUBPART 18. HISTORIC SITES AND CONSERVATION LANDS

Section 8 of the Puerto Rico Federal Relations Act, 48 U.S.C. section 749 is amended by redsignating it section 8A and enacting a new Section 8B:

"SECTION 8b.

"(a)(i) Lands. Title to all lands, buildings, and interests in lands, and other property now owned by the United States

and within the territorial limits of the Commonwealth of Puerto Rico, and the harbor areas and navigable streams and bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters, owned by the United States, which may have been acquired in Puerto Rico by the United States under the cession of Spain in the treaty of peace entered into on December 10, 1898, and the lands owned by the United States, and administered under the Caribbean National Forest, is hereby conveyed to the people of Puerto Rico and placed under the control of the Government of the Commonwealth of Puerto Rico; *Provided*, That the United States and the Commonwealth of Puerto Rico may negotiate to establish mutually agreed terms and conditions for the continued use and administration of such lands and properties.

(ii) The conveyance described in subsection (i) of this section shall be effective thirty days after the enactment of this section and the Legislature of the commonwealth of Puerto Rico shall have the authority to legislate as it shall deem advisable with respect to all such Crown Lands conveyed under this section.''.

SUBPART 10. COMMUNITY VALUES

The Puerto Rican Federal Relations Act is amended by inserting a new section 61 as follows:

"SECTION 61.

"(a) DEFINITIONS.—

"(1) The term 'antitrust laws' has the same meaning given such term in the first section of the Clayton Act, 15 U.S.C. section 12, and shall also include section 5 of the Federal Trade Commission Act, 15 U.S.C. section 45.

"(2) The term 'person in the entertainment industry' means any organization, or an individual connected with any organization, that produces, distributes, transmits, or exhibits any form of audio or visual entertainment.

"(3) The term 'audio or visual entertainment' includes:

"(i) video, audio, or mixed programs transmitted via electromagnetic waves of any frequency, whether transmitted to all receivers of a given type within transmission range, or to only selected receivers on the basis of a subscription fee or any other criteria;

"(ii) programs transmitted by cable systems as defined in section 602(5)-(6) of the Cable Communications Policy Act of 1984, 47 U.S.C. section 522(5)-(6), except that reference in 47 U.S.C. section 522(6) to 'video' shall be read as 'video or audio' and references in 47 U.S.C. sec-

tion 522(6) to 'television' shall be read as 'television or radio'; and

"(iii) motion pictures, which include entertainment, using film, videotapes, videocassettes, compact discs, or any other functionally substantially equivalent medium, if admission is generally charged for such entertainment, or if such entertainment is generally made available to the public on a rental or purchase basis for private viewing.

"The term 'audio or visual entertainment' does not include printed or otherwise written material unless such printed or otherwise written material is used in any form of audio or visual entertainment described above.

"(b) Upon declaration by the Governor of Puerto Rico (the Governor) and publication of such declaration in the official register of the Commonwealth of Puerto Rico, the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence, pornography, alcohol and drugs in all audio or visual entertainment in Puerto Rico, or in any subset of audio or visual entertainment in

Puerto Rico as the Governor may designate in any declaration under this section, provided that

"(1) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any joint discussion, consideration, review, action, or agreement that results in a boycott of any person; and

"(2) no declaration by the Governor under this section shall operate to exempt from the antitrust laws any activities conducted more than 36 months after such declaration by the Governor. The Governor may limit the effect of any declaration to a shorter period if he or she does so in the declaration itself.

"(c) A declaration by the Governor under section 2 concerning any forms of audio or visual entertainment shall not limit his or her authority to make future declarations concerning those forms of audio or visual entertainment."

SUBPART 20. ASSUMPTION OF BUDGETARY RESPONSIBILITIES AND TRANSFER OF FEDERAL FUNCTIONS

The Puerto Rican Federal Relations Act is amended by inserting a new section 63, as follows:

"The Commonwealth of Puerto Rico shall assume the expenses inherent in all governmental authority transferred pursuant to this Act. The Government of the United States, or any agency thereof, may from time to time delegate to the

~~Commonwealth of Puerto Rico the total or partial performance of functions vested in the United States, including the administration of such Federal laws and programs on the island, as may be mutually agreed.".~~

~~SUBPART 21.~~

~~The enhancements to the Commonwealth relationship adopted pursuant to this Act shall form part of the Compact entered upon by the Congress and the People of Puerto Rico in 1952. It may be amended in the same manner as entered upon in order to provide for the continuing enhancement of the Commonwealth relationship.~~

That—

(1) the United States of America recognizes the principle of self-determination and other applicable principles of international law with respect to Puerto Rico; and

(2) the United States is committed to a process of consultation and negotiation with the people of Puerto Rico leading to a referendum on the issue of political status to be conducted in a fair and equitable manner.

SEC. 2. This Act may be cited as the "Puerto Rico Status Referendum Act".

TITLE I

SEC. 101. REFERENDUM.

(a) IN GENERAL.—An islandwide referendum shall be held in Puerto Rico in which qualified voters of the Commonwealth of Puerto Rico shall be presented a choice of three status options for Puerto Rico. The options shall appear on the ballot as follows:

(1) Statehood as set forth in title II of the Puerto Rico Status Referendum Act;

(2) Independence as set forth in title III of the Puerto Rico Status Referendum Act; and

(3) Commonwealth as set forth in title IV of the Puerto Rico Status Referendum Act.

(b) DATE OF REFERENDUM.—The first referendum shall occur on June 4, 1991, or on a date during the summer of calendar year 1991 as may be mutually agreed by the three principal political parties of Puerto Rico.

(c) RETURNS OF REFERENDUM.—The returns of the referendum held under this Act shall be made to the Governor of Puerto Rico, who shall cause them to be canvassed in the manner provided by law for the canvass of votes cast in general elections for Federal office in the Commonwealth of Puerto Rico. If there is not a majority in favor of one of the three options, then there shall be, on August 6, 1991, or on a date during the summer of calendar year 1991 as may be

mutually agreed by the three principal political parties, a runoff referendum between the two status options which had received the largest number of votes. Such referendum shall also include an option of "None of the Above". The Governor shall certify to the President and to the Congress of the United States that decision of the people of Puerto Rico which received a majority of the votes cast, if a majority is obtained.

(d) APPLICABLE ELECTION LAWS.—The election laws of the Commonwealth of Puerto Rico for a general election for the election of a Federal officer, and as in effect on July 15, 1989, shall apply to the referendum held under this Act, except as otherwise specifically provided in this Act, and as necessarily modified to recognize that it is a referendum on status options. The Attorney General of the United States shall provide for adequate monitoring of the referendum by United States marshals.

(e) JUDICIAL REVIEW.—Any legal dispute or controversy arising out of this referendum shall be adjudicated in accordance with local laws and procedures, except that:

(1)(A) Any aggrieved person (including, without limitation, and political party), within sixty days after the certification by the Governor of the results of the referendum pursuant to title I, section 101(c), may institute an action to challenge the choice certified by the

Governor on the basis that (1) an electoral irregularity or irregularities had occurred, and (2) that the irregularity or irregularities were so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor.

(B) The three-judge court provided for in paragraph (2) shall have exclusive jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the aggrieved shall have exhausted any administrative or other remedies provided by Federal law or the law of Puerto Rico.

(C) In any proceeding instituted pursuant to this paragraph of this subsection, if the court finds that there has been an electoral irregularity or irregularities so significant as to affect the outcome of the referendum and call into question the choice certified by the Governor, the court is empowered to grant appropriate relief, including nullification of the entire referendum, ordering a recount or recounts, or any other relief deemed appropriate to preserve the integrity of the electoral process.

(D) The Attorney General of the United States is empowered to intervene at the request of the court in any proceeding brought under this section in order to

assist in the gathering and presentation of evidence. Any aggrieved person with a Federal constitutional or Federal statutory claim arising out of the same factual nexus as an action brought under this section may intervene in that action in a manner deemed timely by the court in its discretion. Failure of such an aggrieved person to timely intervene will result in foreclosure of that person's Federal constitutional or statutory claim.

(E) The court may give such weight as it deems appropriate to the determination of the Commonwealth Elections Commission, the courts of the Commonwealth and any other local authority or tribunal. The court is not required to provide de novo review of any and all claims of irregularities already determined by a local authority or tribunal, except as it deems necessary.

(2)(A) Any claim brought under the United States Constitution or a Federal statute, or any claim brought to challenge the result certified by the Governor, whether brought under this Act or under the law of the Commonwealth of Puerto Rico, shall be heard by a three-judge court which shall have exclusive jurisdiction over all such claims.

(B) The court shall receive evidence and hear argument, as it deems necessary. The provisions of sec-

tion 2284(b)(3) of title 28, United States Code, shall apply to proceedings of the three-judge court. It shall be the duty of the Chief Judge of the First Circuit Court of Appeals, with proper authorization by the Chief Justice of the United States under section 291(a) of title 28, United States Code, where necessary, to designate three judges, of whom at least one shall be a circuit judge and the remaining judge or judges shall be district court judges, to hear and determine any such claim. No judge resident in Puerto Rico shall be designated. Hearings of the three-judge court shall be conducted in Puerto Rico. An appeal from a final judgment of the three-judge court will lie to the Supreme Court of the United States by way of certiorari.

(f) IMPLEMENTATION.—The procedures for implementing the status option which has been certified by the Governor pursuant to subsection (c), shall go into effect on October 1, 1991, in accordance with the appropriate title of this Act.

(g) REFERENDUM INFORMATION OFFICER.—The President shall appoint, from a list provided by the three principal political parties of Puerto Rico, a Referendum Information Officer to be responsible for the translation and distribution of information and educational materials on the

referendum. If the President is not satisfied with the qualifications of those persons on the initial list, the political parties shall submit such additional lists as may be necessary until an appointment is made. There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

TITLE II—STATEHOOD

SEC. 201. PROCLAMATION.

[*Should statehood be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, and upon the certification of the election of the officers required to be elected as provided in section 206 of this Act, the President shall issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation, the Commonwealth of Puerto Rico (hereinafter referred to also as "the State") shall be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.*]

(a) If, under section 101(c) of this Act, statehood is certified as having obtained a majority of the votes cast in the referendum, the President shall issue a proclamation announcing the results of the election as so ascertained.

(b) Upon the issuance of the proclamation under subsection (a), the Commonwealth of Puerto Rico (hereafter in this title also referred to as "the State") shall, effective on January 1 of the 5th calendar year following the calendar year in which the certification under section 101(c) of this Act occurs, be declared to be a State of the United States of America, and shall be declared admitted into the Union on an equal footing with the other States.

SEC. 202. CONSTITUTION.

The Constitution of the Commonwealth of Puerto Rico shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The Constitution adopted by a vote of the people of Puerto Rico in the election held on June 4, 1951, has been found by Congress to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and was accepted, ratified, and confirmed, through Public Law 447 of the Eighty-second Congress, March 3, 1952. The current Constitution of the Commonwealth of Puerto Rico as ratified by the people at the referendum held on June 4, 1951, is hereby accepted as the Constitution of the State.

SEC. 203. TERRITORY AND BOUNDARIES.

The State shall consist of all of the territory, together with the waters included in the seaward boundary, of the Commonwealth of Puerto Rico.

SEC. 204. STATE TITLE TO LANDS AND PROPERTY.

(a) The State and its political subdivisions shall have and retain title to all property, real and personal, which it currently holds, including, but not limited to, title to submerged lands heretofore granted to Puerto Rico.

(b) Any lands and other properties that, as of the date of admission of Puerto Rico into the Union, are set aside pursuant to law for the use of the United States under any (A) Act of Congress, (B) Executive order, (C) proclamation of the President, or (D) proclamation of the Governor of the Commonwealth of Puerto Rico, shall remain the property of the United States.

(c) Not later than five years after the date of admission of the Commonwealth of Puerto Rico as a State of the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to this section shall submit a report to the President and the Congress concerning the continued need for such land or property. If the President determines that any such land or property, or portion thereof, or any interest therein, is no longer needed by the Federal Government, it shall be conveyed to the Commonwealth of Puerto Rico at no cost. This

section does not authorize the transfer of any interest in the Caribbean National Forest or the San Juan Historic Site.

(d) All laws of the United States: (1) reserving to the United States the free use or enjoyment of property which vest in or is conveyed to the Commonwealth of Puerto Rico or its political subdivisions pursuant to this section; or (2) reserving the right to alter, amend, or repeal laws relating to the ownership of such land; shall cease to be effective upon the conveyance of the land.

SEC. 205. CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) As a compact with the United States, the Commonwealth and its people recognize all rights and titles to any lands or other property not granted or conferred to the Commonwealth or its political subdivisions by or under the authority of this Act, the right or title to which is now held by the United States or subject to disposition by the United States.

(b)(1) Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the

determination of the applicability of any law to any such claim shall be unaffected by anything in this Act.

(c) No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States.

SEC. 206. ELECTIONS AND ADMISSION REFERENDUM.

[*(a)(1) Within thirty days after the date of the certification of the results of the referendum under title I of this Act, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. The Governor of the Commonwealth shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the proclamation issued under section 201, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.*]

(a)(1)(A) Not later than January 1 of the 4th calendar year following the calendar year in which the certification under section 101(c) of this Act occurs, the Governor of the Commonwealth of

Puerto Rico shall issue a proclamation for the election of two United States Senators and for such number of United States Representatives in Congress as provided in this Act. Such proclamation shall provide that such elections shall occur on the first Tuesday in November of such 4th calendar year (or on another date during the fall of such calendar year as may be provided by legislation enacted by the Commonwealth of Puerto Rico).

(B) The Governor of the Commonwealth of Puerto Rico shall certify the election of the Senators and Representatives in the manner required by law. The Senators and Representatives elected shall be entitled, upon the date of admission of the Commonwealth of Puerto Rico as a State of the Union, to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of the other States in the Congress of the United States. The Office of Resident Commissioner shall cease to exist upon the swearing in of the first Member of the House of Representatives so elected.

(2) In the first election of Senators from the State, the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the two senato-

rial officers shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b)(1) Election returns shall be made and certified in such manner as provided by the electorial laws of Puerto Rico and in such a manner as the Commonwealth of Puerto Rico may prescribe. The Governor of the Commonwealth of Puerto Rico shall certify the results of such elections to the President of the United States.

(2) The new State of Puerto Rico shall be known as the Commonwealth of Puerto Rico.

(3) The individuals holding legislative, executive, and judicial offices of the Commonwealth of Puerto Rico, shall continue to discharge the duties of their respective offices, pending the issuance of the proclamation by the President of the United States and the admission of the Commonwealth of Puerto Rico as a State of the Union. The officers elected or appointed under the provisions of the constitution and laws of the Commonwealth shall thereupon proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of the State, as provided by the constitution and laws of the State.

SEC. 207. CONGRESSIONAL REPRESENTATION.

The Commonwealth of Puerto Rico upon its admission into the Union, and until the next reapportionment, shall be entitled to such additional Representatives as would be provided based upon the 1990 census. The permanent membership of the House of Representatives as now prescribed by law, is hereby increased from four hundred and thirty-five to four hundred and thirty-five plus the number of additional Representatives to which the Commonwealth of Puerto Rico is entitled.

SEC. 208. LAWS IN EFFECT.

(a) Upon admission of the Commonwealth of Puerto Rico into the Union, all of the local laws then in force in the Commonwealth of Puerto Rico shall be and continue in force and effect throughout the State, except as modified or changed by this Act, and shall be subject to repeal or amendment by the legislature of the Commonwealth. All of the laws of the United States shall have the same force and effect within the State as on the date immediately prior to the date of admission of the State of Puerto Rico, except as otherwise provided in section 213 ***or 214*** *or elsewhere in this Act, and except for any provisions of law which provide for grants or other assistance to States or other units of local government or individuals and for which the Commonwealth of Puerto Rico or residents thereof are either excluded or whose eligibility is less than that provided on a uniform basis to other*

States. Any regulatory or other provision of law, other than grants and other assistance, which does not apply to Puerto Rico solely on the basis of particular geography, especially if such provision does not also apply to either Alaska or Hawaii, shall continue to not apply unless specifically extended by Congress.

(b) Within sixty days of the certification of a majority vote for statehood in the referendum, the President shall appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Commonwealth of Puerto Rico should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be residents of Puerto Rico who are and have been for at least five years domiciled continuously in Puerto Rico at the time of their appointments) who will be representative of the Federal, local, private and public interests in the applicability of laws of the United States to the Commonwealth of Puerto Rico. The Commission will make its final report by January 1, 1994, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate. In formulating its recommendations the Commission

will take into consideration the potential effect of each law on local conditions within the Commonwealth of Puerto Rico, the policies embodied in the law and the provisions and purposes of this title. The United States will bear the cost of the work of the Commission. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

SEC. 209. CONTINUATION OF SUITS.

(a) No writ, action, indictment, cause, or proceeding pending in any court of the Commonwealth of Puerto Rico, shall abate by reason of the admission of the Commonwealth of Puerto Rico into the Union, but shall proceed within such appropriate State courts as are now established under the Constitution of the Commonwealth, or shall continue in the United States District Court for the District of Puerto Rico, as the nature of the case may require.

(b) All civil causes of action and all criminal offenses, which shall have arisen or been committed prior to the admission of the Commonwealth, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Puerto Rico in like manner, to the same extent, and with like right of appellate review, as if such State had been created and such State courts had been established prior

to the accrual of such causes of action or the commission of such offenses. The admission of the State shall effect no change in the procedural or substantive laws governing causes of action and criminal offenses which shall have arisen or been committed, and any such criminal offenses as shall have been committed against the laws of the Commonwealth of Puerto Rico, shall be tried and punished by the appropriate courts of the State, and any such criminal offenses as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Puerto Rico.

SEC. 210. APPEALS.

Parties shall have the same rights of judicial review of final decisions of the United States District Court for the District of Puerto Rico or the Supreme Court of the Commonwealth of Puerto Rico, in any case finally decided prior to the admission of the State of Puerto Rico into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the First Circuit and the Supreme Court of the United States, shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union. Any mandate issued subsequent to the admission of the State, shall be to the United States District Court for the District of Puerto Rico or a court of the State, as appropri-

ate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Puerto Rico and of the Supreme Court of Puerto Rico, in any case pending at the time of admission of the State into the Union, and the Supreme Court of the Commonwealth of Puerto Rico and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

SEC. 211. MILITARY LANDS.

(a) Subject to subsection (b) and notwithstanding the admission of the Commonwealth of Puerto Rico into the Union, authority is reserved in the United States for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(b)(1) The Commonwealth of Puerto Rico shall always have the right to serve civil or criminal process within such tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes

committed within the State but outside of such tracts or parcels of land.

(2) The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over such lands shall not operate to prevent such lands from being a part of the Commonwealth of Puerto Rico, or to prevent the State from exercising over or upon such lands, concurrently with the Federal Government, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation or authority.

(3) The power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes, except that the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been or may be determined to be critical areas as designated by the President of the United States or the Secretary of Defense.

SEC. 212. UNITED STATES NATIONALITY.

No provision of this title shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any

law of the United States or under any treaty to which the United States is or was a party.

SEC. 213. ECONOMIC ADJUSTMENT.

The following provisions ***and the provisions of section 214*** *are enacted pursuant to Congress's power to admit new States, in recognition of the unique Federal tax provisions and programs affecting the Commonwealth of Puerto Rico which differ from those which applied to any other newly admitted State, and solely for the purposes of effecting a smooth and fair transition for the new State with a minimum of economic dislocation and to permit Federal agencies to assume or expand responsibilities for the administration and enforcement of Federal taxes and programs affecting the citizens residing in the new State.*

[(a) APPLICATION OF EXCISE TAXES.—Effective on the date of admission of the State of Puerto Rico, all Federal excise taxes not heretofore applicable to the former Commonwealth of Puerto Rico are hereby extended to the State in the same manner as otherwise applicable in the several States.]

[(b)](a) APPLICATION OF FEDERAL LAWS.—Effective upon the certification of the results of the referendum, the heads of all Federal agencies are directed, as a priority matter, to examine the application of all programs within the jurisdiction of their respective agencies and, after consultation with the Governor of Puerto Rico, to recommend to the

President, and to the Commission established under section 208(b), what changes, if any, and what additional administrative requirements, if any, will be needed to properly achieve the application of Federal laws in or to the new State with proper regard for the economic, geographic, and cultural circumstances of the new State.

[*(c) TRANSITION FOR CERTAIN ENTITLEMENTS.—Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to, Aid to Families with Dependent Children, Medicaid, Medicare, Foster Care and Adoption Assistance, Social Services block grant, and the Food Stamp Program, shall apply in the Commonwealth of Puerto Rico as they apply within the several States: Provided, That, reimbursements under Medicare shall not exceed the actual cost of providing equivalent health care to the levels of care provided in the several contiguous States: Provided further, That the Secretary of Agriculture may, with the consent and agreement of the Governor of Puerto Rico continue to obligate the amount of funds for which Puerto Rico becomes eligible under the Food Stamp Program as a block grant rather than as coupons as a pilot program until October 1, 1997, unless otherwise provided by Congress. Solely for the purposes of transition and as a matter of administra-*

tive necessity, to enable the Secretary of Health and Human Services to properly administer and provide benefits under the Supplemental Security Income Program, such program shall not commence until January 1, 1994. Until such date, the present Program for Aid to the Aged, Blind and Disabled is continued.

[*(d) TRANSITION FOR TAX.—The current tax treatment applicable to Puerto Rico is continued until January 1, 1994. Effective upon the certification of the results of the referendum, the Secretary of the Treasury shall consult with the Governor of Puerto Rico on the transition of the new State from a foreign tax jurisdiction. The Secretary is authorized, on a nonreimbursable basis, to provide such technical and other assistance as the Governor may require to reform the present revenue situation of Puerto Rico prior to January 1, 1994. The heads of all Federal agencies are directed to assist the Secretary and to provide such support as the Secretary may request. Effective January 1, 1994, the Federal internal revenue laws shall apply within the State of Puerto Rico as within the several States subject to such transitional rules or other provisions as Congress may have enacted prior to such date: Provided, That, the credit previously allowed under section 936 of the Internal Revenue Code with respect to income or investments from activity in Puerto Rico shall be reduced to 80 per centum for taxable years beginning*

in 1994, 60 per centum for taxable years beginning in 1995, 40 per centum for taxable years beginning in 1996, 20 per centum for taxable years beginning in 1997, and shall not be available with respect to such income or investments thereafter. Congress explicitly reserves authority to enact appropriate transitional rules regarding the implementation of the above credit reductions and the tax treatment of corporations with respect to which an election under Internal Revenue Code section 936 is in effect during the transition period, and the Secretary of the Treasury is authorized to promulgate and implement such regulations as are necessary therefor.

[*(e) STATEHOOD GRANTS AND ASSISTANCE.—*

[*(1) The current payment provided by permanent indefinite appropriations of customs duties and equivalency payments on alcohol are hereby continued as a statehood grant.*

[*(2) Until otherwise provided by law, all revenues derived from excise taxes which became applicable in the State pursuant to subsection (a) of this section, or any new excise taxes which become applicable thereafter, shall be deposited into the Treasury of Puerto Rico. As a compact with the State of Puerto Rico, no alteration in the transfer of funds under this paragraph and paragraph (1) above may be made until after Oc-*

tober 1, 1998. The prohibition under section 7652(d)(2) of the Internal Revenue Code shall apply to such funds.

[(3) As a transitional statehood grant to the new State to assist in maintenance of government services and to provide for maintenance of infrastructure, and to minimize the impact on local revenues from the transition from being a foreign tax jurisdiction, all revenues derived from the application of the Federal internal revenue laws in 1994 and 1995 within the State of Puerto Rico shall be deposited into the Treasury of Puerto Rico. The measure of the amount of income which is so derived will be determined according to such transitional rules or other provisions as Congress may have enacted prior to January 1, 1994.]

(b) TRANSITION FOR CERTAIN ENTITLEMENTS.—

(1) Except as otherwise provided in this subsection, effective on the date of admission of the State of Puerto Rico, all Federal programs which provide assistance to or on behalf of individuals, including, but not limited to Aid to Families with Dependent Children, Medicaid, Foster Care and Adoption Assistance, Social Services block grant, and the Food Stamp pro-

gram, shall apply in the Commonwealth of Puerto Rico as they apply within the several States.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, amounts applicable under sections 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act may not exceed 50 percent and under section 1611(a)(2)(A) and 1611(b)(2) of such Act may not exceed 75 percent of the per capita income of the State (as determined on the basis of the most recent reliable data available from the Secretary of Commerce) in which the applicant for or recipient of benefits under title XVI of such Act resides. An individual shall, regardless of legal residence, be considered to reside in a State for purposes of this paragraph for any month in which such individual is physically present in such State throughout the entire month. The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall promulgate the amounts determined under this paragraph for the State at the same time and

in the same manner as amounts are promulgated for cost-of-living adjustments in benefits under section 1617 of the Social Security Act.

(3)(A) Beginning on January of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the Secretary shall implement the Supplemental Security Income for the Aged, Blind, and Disabled program as provided under title XVI of the Social Security Act in Puerto Rico. The benefit standards provided under section 1611 (a) and (b) of the Social Security Act shall, after any reduction under the per capita limitation described in paragraph (2) be set at—

(i) 25 percent of the otherwise applicable level in such 2nd calendar year;

(ii) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(iii) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(B) The Secretary and the Government of Puerto Rico may enter into an agreement

under which the implementation of the Supplemental Security Income program described in this paragraph in Puerto Rico will be deferred to a date later than January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act (but not later than the effective date of admission of the State of Puerto Rico). Any such agreement must provide that payment levels under the program of Aid to the Aged, Blind, and Disabled as in effect in Puerto Rico shall be based on the levels that would otherwise be in effect there under the Supplemental Security Income program and the Federal contribution to the cost of such payments shall not exceed what would have been the Federal costs under such Supplemental Security Income program.

(4)(A) Except as provided in this paragraph or in any agreement between the Government of Puerto Rico and the Secretary, the Medicaid program provided for under title XIX of the Social Security Act shall, prior to the effective date of admission of the State of Puerto Rico, continue to operate in Puerto Rico as it is

operated on the date of the enactment of this Act.

(B) The Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) of such section shall apply with respect to benefits paid under such program on or after January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(C) Section 1108(c) of the Social Security Act—

(i) shall be inapplicable to Puerto Rico on and after the date of admission of the State of Puerto Rico; and

(ii) shall apply to fiscal years ending after the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, and prior to such date of admission, as though the amount set forth in paragraph (1)(C) thereof were increased by the applicable percentage of the excess of the amount that would be payable to Puerto Rico with-

out regard to such section 1108(c) over $79,000,000.

For purposes of clause (ii), the applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the 2nd such fiscal year, and 75 percent for the 3rd such fiscal year.

(5) Prior to the effective date of admission of the State of Puerto Rico, the Aid to Families with Dependent Children program provided for under part A of title IV of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that—

(A) the Federal matching rate for program expenditures after December of the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act shall equal the Federal medical assistance percentage rate determined under section 1905(b) of the Social Security Act without regard to clause (2) thereof, and

(B) the limitation on expenditures provided for under section 1108(a)(1) of the Social Security Act shall not apply with

respect to such expenditures under such title.

(6) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within 6 months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. If such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, the Secretary shall submit to the appropriate committees of Congress within 6 months of the date of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(7) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under titles IV, XVI (as in effect before the date of the enactment of Public Law 92–603), and XIX of the Social Security Act with respect to expenditures under such titles for any fiscal year which ends after the end of the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act and prior to the date of the admission of Puerto Rico as a State, to the extent that the sum of such amounts and any expenditures under the Supplemental Security Income program under title XVI of the Social Security Act with respect to residents of Puerto Rico exceeds the sum of $161,000,000 and any increase in Federal revenues by reason of section 214(d) of this Act. The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustments in such amount as determined for prior years.

SEC. 214. PROVISIONS RELATING TO TAXATION AND REVENUE TRANSFERS.

(a) GENERAL RULE.—Except as otherwise provided in this section—

(1) all Federal tax laws shall be applicable to the State of Puerto Rico on and after the date of its admission as a State of the Union in the same manner as applicable to all other States; and

(2) all Federal tax laws which are applicable to the Commonwealth of Puerto Rico before the date of the enactment of this Act shall continue to apply until such date of admission.

(b) TRANSITION PERIOD FOR APPLICATION OF INCOME TAXES.—

(1) Except as provided in paragraph (2), in the case of any taxable year in the transition period, the Federal income tax laws shall be applied—

(A) to all persons in the same manner as if the Commonwealth of Puerto Rico were a State, and

(B) without regard to section 933 of the Internal Revenue Code of 1986.

(2) The amount of any increase (or decrease) in any Federal income tax by reason of the application of paragraph (1) shall be equal to the applicable percentage of the amount by

which such tax is greater (or less) than such tax computed without regard to this subsection.

(3) For purposes of this subsection—

(A) The applicable percentage with respect to any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st	*25 percent*
2nd	*50 percent*
3rd	*75 percent*
4th and succeeding	*100 percent.*

(B) If, but for this subparagraph, the applicable percentage for the taxable year in the transition period which includes the date of admission of Puerto Rico as a State is less than 100 percent, the applicable percentage shall be treated as 100 percent with respect to the amount which bears the same ratio to the amount of the increase or decrease under paragraph (2)(A) (or the credit under paragraph (2)(B)) as—

(i) the number of months in the taxable year after the month preceding the month including such date, bears to

(ii) the total number of months in such taxable year.

(4) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's 2nd taxable year beginning after the date of the certification of the referendum under section 101(c) of this Act and ending with the taxpayer's taxable year which includes the date of admission of Puerto Rico as a State. For purposes of the preceding sentence, a taxpayer whose 1st taxable year begins after such certification date shall be treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(5)(A) Paragraph (1) shall not apply to a corporation which is a FSC (as defined in section 922 of such Code) organized and operated under the laws applicable to the Commonwealth of Puerto Rico.

(B) Notwithstanding paragraph (1), if any portion of the foreign source income of a Puerto Rican corporation is not subject to United States tax by reason of paragraph (2),

such corporation shall be treated as a foreign corporation for purposes of applying the anti-deferral provisions to such portion.

(C) For purposes of subparagraph (B), the term "antideferral provisions" means subchapter G, subpart F of part III of subchapter N, and part VI of subchapter P of chapter 1 of such Code.

(c) EMPLOYMENT, EXCISE, AND ESTATE AND GIFT TAXES.—

(1) Except as provided in paragraph (3), and notwithstanding any other provision of law, in the case of any calendar year during the transition period, the following taxes shall be imposed in the same manner as if the Commonwealth of Puerto Rico were a State:

(A) Chapter 24 of the Internal Revenue Code of 1986 (relating to income tax collected at source).

(B) Any excise tax imposed under the Internal Revenue Code of 1986 other than sections 3111 and 3301 of such Code.

(2) In the case of any transfer of property after September 27, 1990, and before the date of admission of Puerto Rico as a State by a

donor to whom section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(A) if such donor dies on or after such date of admission, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within 3 years before such date of death, and

(B) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of admission, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

(3)(A) A tax imposed under paragraph (1) shall be equal to the applicable percentage of such tax determined without regard to this paragraph.

(B) For purposes of this paragraph, the applicable percentage for any calendar year in

the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st year	*25 percent*
2nd year	*50 percent*
3rd year	*75 percent*
4th year	*100 percent.*

(4) For purposes of this subsection, the term "transition period" means the 4-calendar year period beginning with the 2nd calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(5) Paragraph (1)(B) shall not apply to any article to which section 7652 of the Internal Revenue Code of 1986 applies.

(6)(A) In the case of any article which is held for sale in Puerto Rico on January 1 of the 1st, 2nd, 3rd, or 4th calendar year of the transition period, and which on such date is beyond the point at which tax would otherwise be imposed under the relevant provision of the Internal Revenue Code of 1986, there is hereby imposed a tax equal to the excess of--

(i) the Federal excise tax which would be imposed under the Internal Revenue

Code of 1986 if such tax were imposed on such date, over

(ii) the amount of such tax if such tax were imposed on January 1 of the preceding calendar year.

(B) The person holding an article on which tax is imposed under subparagraph (A) shall be liable for payment of such tax, and such tax shall be due and payable on February 15 of the calendar year in which imposed in the same manner as the excise tax which would have been imposed under the relevant provision of the Internal Revenue Code of 1986 on a similar article.

(d) TRANSITION PERIOD FOR SECTION 936 CREDIT.—

(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the certification of the referendum under section 101(c) of this Act, and

(B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the 3-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or its predecessor was not in existence).

If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its 1st taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2)(A) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st taxable year	*75 percent*
2nd taxable year	*50 percent*
3rd taxable year	*25 percent*
4th and following taxable year	*0 percent.*

(B) For purposes of this paragraph, a rule similar to the rule contained in subsection (b)(3)(B) shall apply.

(3) For purposes of this subsection, the term "transition period" has the meaning given such term by subsection (b)(4).

(e) COVER OVER OF TAXES.—

(1)(A) Except as provided in subparagraph (B), all income and excise taxes collected under the internal revenue laws of the United States by reason of subsections (b) and (c) allocable to each fiscal year (or portion thereof) proceeding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico.

(B) The provisions of section 7652 of the Internal Revenue Code of 1986 shall continue to apply before the date of admission of Puerto Rico as a State and shall cease to apply on and after such date.

(2)(A) Taxes collected under the internal revenue laws of the United States by reason of

subsection (d) allocable to each fiscal year (or the portion thereof) preceding the date of admission of Puerto Rico as a State shall be covered into the treasury of Puerto Rico to the extent that the amount of such taxes exceeds the applicable excess expenditures of the United States allocable to such portion of the fiscal year.

(B) For purposes of subparagraph (A), the term "applicable excess expenditures" means the excess (if any) of—

(i) the amount of expenditures by the United States—

(I) with respect to the operation in Puerto Rico (or for residents thereof) of the programs established by parts A and E of title IV, title XVI (as added by Public Law 92-603), title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of the Social Security Act, and

(II) with respect to credits under section 32 of such Code in excess of tax liability allowable to residents of Puerto Rico, over

(ii) the amount of the expenditures described in clause (i) which would have been made without regard to the provisions of this Act.

(f) RESERVATION; REGULATIONS.—

(1) Congress explicitly reserves authority to enact appropriate transitional rules to implement the provisions of this section.

(2) The Secretary of the Treasury is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out the purposes of this section and to implement the transition to statehood.

SEC. 215. AMENDMENTS TO TRADE LAWS.

(a) ELIMINATION OF SEPARATE DUTIES.—

(1) Notwithstanding any other provision of law, no additional duties may be imposed by the Legislature of Puerto Rico after the date of the certification of the referendum under section 101(c) of this Act.

(2) Beginning on the first day of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, any duties imposed by the Legislature of Puerto Rico that are in effect on

the date of such certification shall be reduced by an amount equal to the applicable percentage of such duties in accordance with the following table:

In the case of the following calendar year after certification:	*The applicable percentage is:*
2nd	*25*
3rd	*50*
4th	*75*
5th and following	*100.*

(3) Section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(4) The Act of June 18, 1934 (48 Stat. 1017, chapter 604; 19 U.S.C. 1319a) is repealed effective January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(5) Any Act ratifying an Act of the Legislature of Puerto Rico which imposes tariffs or duties on articles imported into Puerto Rico is repealed effective January 1 of the 5th calendar year following the calendar year in which

the date of the certification of the referendum under section 101(c) of this Act occurs.

(b) CARIBBEAN BASIN INITIATIVE.—

(1) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(A) by striking "the Commonwealth of Puerto Rico" in the flush paragraph at the end of paragraph (1),

(B) by striking "(other than the Commonwealth of Puerto Rico)" in the flush paragraph at the end of paragraph (1), and

(C) by striking paragraphs (4) and (5).

(2) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(A) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(B) by striking "produced in Puerto Rico or" and inserting "produced in".

(3) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by re-

designating subsections (f) and (g) as subsections (e) and (f), respectively.

(4) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

(c) CONFORMING AMENDMENTS.—

(1) Section 504 of the Trade Act of 1974 (19 U.S.C. 2464(e)) is amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(2) Section 4 of the Act of April 12, 1900 (commonly known as the "Foraker Act"; 31 Stat. 77, chapter 191; 48 U.S.C. 740) is repealed.

(3) The amendments made by this subsection shall take effect on January 1 of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

TITLE III—INDEPENDENCE

SEC. 301. CONSTITUTIONAL CONVENTION.

(a) Should independence be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, then the Legislative Assembly of the Com-

monwealth of Puerto Rico shall provide, within two months, for the election of delegates to a Constitutional Convention to serve until the proclamation of independence and to draft a Constitution for the Republic of Puerto Rico. The election of delegates must be held within six months after such referendum.

(b) Those qualified to vote in the election of delegates to the Constitutional Convention shall be (1) All persons born and residing in Puerto Rico; (2) all persons residing in Puerto Rico and one of whose parents was born in Puerto Rico; (3) all persons who at the time of the adoption of this Act shall have resided in Puerto Rico for a period of twenty years or more; (4) all persons who established their residence in Puerto Rico prior to attaining voting age and still reside in Puerto Rico; and (5) spouses of all persons included in (1), (2), (3), and (4) above.

(c) The laws of the Commonwealth of Puerto Rico relating to additional voter qualifications and the electoral process shall apply to this election.

(d) The Constitutional Convention shall meet within three months of the election of delegates at such time and place as the Legislative Assembly of the Commonwealth of Puerto Rico shall determine.

(e) The Constitutional Convention shall exercise jurisdiction over all of the territory of Puerto Rico ceded to the

United States by Spain by virtue of the Treaty of Paris the tenth day of December 1898.

SEC. 302. CHARACTER OF THE CONSTITUTION.

(a) The Constitutional Convention mandated under the previous section shall formulate and draft a constitution establishing a republican form of government which shall guarantee the protection of fundamental human rights.

(b) The fundamental human rights guaranteed by the aforementioned constitution shall include such rights as due process and equal protection under the law, freedom of speech, press, assembly, association, and religion, as well as the rights of the accused, and economic, social, and cultural rights such as the right to education, adequate nutrition, health services, adequate housing, and work or employment and the right to own private property and to just compensation for the taking thereof.

(c) The property rights of the United States and Puerto Rico shall be promptly adjusted and settled, and all existing property rights of citizens or corporations of the United States shall be acknowledged, respected, and safeguarded to the same extent as property rights of citizens of Puerto Rico.

SEC. 303. RATIFICATION OF THE CONSTITUTION.

(a) The Constitution adopted by the Constitutional Convention shall be submitted to the people of Puerto Rico for its ratification or rejection.

(b) The Legislative Assembly of the Commonwealth of Puerto Rico shall call for a special election for such ratification or rejection, to be held within three months of the adoption of the Constitution by the Constitutional Convention.

(c) The special election providing all qualified voters the opportunity to cast a vote for or against the proposed Constitution shall be held in the manner prescribed by the Legislative Assembly of the Commonwealth of Puerto Rico. In the event such Constitution is not approved in the election, it shall be resubmitted to the convention for further consideration and resubmission to the voters as provided in this section.

(d) Those qualified to vote in this election shall be those possessing the qualifications established in section 301 of this title.

SEC. 304. ELECTION OF OFFICERS OF THE REPUBLIC.

(a) Within thirty days of the ratification of the Constitution as provided for by section 303 of this title, the Governor of the Commonwealth of Puerto Rico shall issue a proclamation calling for the election of such officers of the Republic of Puerto Rico as may be required by the ratified Constitution.

(b) The election of officers of the Republic shall be held not later than six months after the date of ratification of the Constitution.

(c) The aforesaid election shall be held in accordance with the procedures and requirements established in the Constitution of the Republic of Puerto Rico.

(d) The Governor of the Commonwealth of Puerto Rico shall certify the results of the election to the President of the United States.

SEC. 305. JOINT TRANSITION COMMISSION.

(a) A Joint Transition Commission shall be appointed in equal numbers by the President of the United States and the Presiding Officer of the Constitutional Convention of Puerto Rico.

(b) The Joint Transition Commission shall be responsible for expediting the orderly transfer of all functions currently exercised by the Government of the United States in Puerto Rico, or in relation to Puerto Rico; including the recommendation of appropriate legislation to the appropriate officials of each government.

(c) Any necessary task forces established by the Joint Transition Commission shall be constituted in the same manner as the Commission.

(d) The Government of the Commonwealth of Puerto Rico and the agencies of the Government of the United States shall cooperate with the Joint Transition Commission and subsequently with the new officers of the Republic of

Puerto Rico, to provide for the orderly transfer of the functions of government.

(e) The costs of the Transition Commission shall be evenly divided between the United States and Puerto Rico, and there is hereby authorized to be appropriated such sums as are necessary for the United States share of these costs. Agencies of the United States Government shall provide technical assistance to the Joint Transition Commission on a reimbursable basis.

SEC. 306. RESOLUTION OF CONTROVERSIES PRIOR TO INDEPENDENCE.

Except as provided in title I of this Act and beginning on the date of the certification provided for in title I of this Act, and until the date of proclamation of independence, any action arising from this title filed in courts of the United States shall be stayed and referred to the Joint Transition Commission for resolution within a reasonable period of time.

SEC. 307. PROCLAMATIONS BY THE PRESIDENT OF THE UNITED STATES AND THE HEAD OF STATE OF THE REPUBLIC OF PUERTO RICO.

(a) Not later than one month after the official certification of the elected officers of the Republic of Puerto Rico under section 304, and the approval, in accordance with the constitutional processes of Puerto Rico and the United

States, of the agreements set forth in sections 312 and 313, the President of the United States shall by proclamation withdraw and surrender all rights of possession, supervision, jurisdiction, control or sovereignty then existing and exercised by the United States over the territory and people of Puerto Rico, and shall furthermore recognize on behalf of the United States of America the independence of the Republic of Puerto Rico and the authority of the government instituted by the people of Puerto Rico under the Constitution of their own adoption. The proclamation shall state that the effective date of withdrawal of the sovereignty of the United States and the recognition of independence shall be the same as the date of the proclamation of independence, as provided in subsection (d).

(b) The President of the United States shall forward a copy of the proclamation issued by him to the presiding officer of the Constitutional Convention of Puerto Rico within a week after signature.

(c) Within one week after receiving the Presidential proclamation and with the advice of the officer elected as head of state of the Republic, the presiding officer of the Constitutional Convention shall determine the date in which the Government of the Republic shall take office, and shall so notify the Governor of the Commonwealth of Puerto Rico and the President of the United States.

(d) Upon taking office, the head of state of the Republic of Puerto Rico shall immediately issue a proclamation declaring (1) that Puerto Rico has become a sovereign, independent nation; (2) that the Constitution of the Republic is thenceforth in effect; (3) that the Commonwealth of Puerto Rico and its Government have ceased to exist; and (4) that the Government of the Republic will henceforth exercise its powers and duties under its Constitution.

SEC. 308. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON LEGAL AND CONSTITUTIONAL PROVISIONS.

(a) Upon the proclamation of independence as provided in section 307, and except as otherwise provided in this title or in any separate agreements hereinafterwards concluded between the United States and the Republic of Puerto Rico—

(1) all property, rights, and interests which the United States may have acquired over Puerto Rico by virtue of the Treaty of Paris of 1898, and thereafter by cession, purchase, or eminent domain, with the exception of such land and other property, rights, or interests as may have been sold or otherwise legally disposed of prior to the enactment of this Act, shall vest in the Republic of Puerto Rico;

(2) all laws of the United States applicable to the Commonwealth of Puerto Rico immediately prior to

the proclamation of independence shall no longer apply in the Republic of Puerto Rico; and

(3) all laws and regulations of the Commonwealth of Puerto Rico in force immediately before the proclamation of independence shall continue in force and shall be read with such modifications, adaptions, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution of the Republic of Puerto Rico until such time as they shall be replaced with new legislation: Provided, That any provisions that may be incompatible with the sovereignty of the Republic of Puerto Rico shall be deemed invalid.

SEC. 309. EFFECTS OF THE PROCLAMATION OF INDEPENDENCE ON JUDICIAL PRONOUNCEMENTS.

Unless otherwise agreed by the Governments of the United States and Puerto Rico in accordance with their respective constitutional processes:

(a) The Republic of Puerto Rico shall recognize and give effect to all orders and judgments rendered by United States or Commonwealth courts prior to the proclamation of independence pursuant to the laws of the United States then applicable to the Commonwealth of Puerto Rico.

(b) All judicial proceedings pending in the courts of the Commonwealth of Puerto Rico prior to the proclamation of

independence shall be continued in the corresponding courts under the Constitution of the Republic of Puerto Rico.

(c) Upon the proclamation of independence, the judicial power of the United States shall no longer extend to Puerto Rico. All proceedings pending in the United States District Court for the District of Puerto Rico shall be transferred to the corresponding Puerto Rican courts of competence under the Constitution of the Republic of Puerto Rico for disposition in conformity with laws applicable at the time when the controversy in process arose. All proceedings pending in the United States Court of Appeals for the First Circuit, or in the Supreme Court of the United States, which may have initiated in the courts of the Commonwealth or in the United States District Court for the District of Puerto Rico shall continue until their final disposition and shall be submitted to the competent authority of the Republic of Puerto Rico for proper execution: Provided, That neither the United States nor any of its officers is a party, in which case any final judgment shall be properly executed by the competent authority of the United States.

SEC. 310. STATE SUCCESSION.

(a) The Government of the Republic of Puerto Rico shall be deemed successor to the Government of the Commonwealth of Puerto Rico and of all the rights and obligations thereof.

(b) Upon proclamation of independence the President of the United States shall notify the governments with which the United States is in diplomatic correspondence, to the United Nations Organization, and to the Organization of American States, that—

(1) the United States has recognized the independence of the Republic of Puerto Rico; and

(2) all obligations and responsibilities of the Government of the United States which arise from any valid bilateral or multilateral international instruments affecting Puerto Rico, insofar as said instruments may be held to have consequences for the United States because of their application to or in respect to Puerto Rico, shall cease: Provided, That such obligations and responsibilities may be assumed by the Government of the Republic of Puerto Rico in a manner to be determined and proclaimed by the appropriate officer of the Republic of Puerto Rico in accordance with its Constitution.

SEC. 311. CITIZENSHIP AND MIGRATION.

(a) All matters pertaining to Puerto Rican citizenship shall be regulated pursuant to the Constitution and laws of the Republic of Puerto Rico.

(b) Upon the certification of the referendum under section 101(c) of this Act, Puerto Rico shall no longer be deemed

to be a part of the United States for the purposes of acquiring citizenship of the United States by place of birth. Provisions of the Jones Act and Immigration and Nationality Act declaring Puerto Rico to be a part of the United States for the purpose of extending citizenship to persons born in Puerto Rico are repealed or modified, as appropriate, to delete any reference to Puerto Rico and Puerto Rico shall not be considered to be a part of the United States for such purposes: Provided, That nothing in this section shall affect the citizenship of any person born prior to the date of the certification of the referendum.

(c) Notwithstanding any other provision of law, no person born outside of the United States after the Proclamation of Independence shall be a citizen of the United States at birth if the parents of such person acquired citizenship in the United States solely by virtue of being born in Puerto Rico prior to the Proclamation of Independence pursuant to the provisions of the Jones Act and the Immigration and Nationality Act.

(d) Every person who is not a citizen of the United States and becomes a citizen of the Republic of Puerto Rico upon proclamation of Independence, or becomes a citizen of the Republic by birth after the proclamation of Independence, or is a naturalized citizen of the Republic who has been an actual resident of Puerto Rico for not less than five years,

may, after proclamation of Independence, enter into, lawfully engage in occupations, and establish residence as immigrants in the United States, as provided by law and regulations of the United States: Provided, That notwithstanding any other provision of law, persons identified under subsection (c) above may, for a period of twenty-five years after such proclamation, enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions, and such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States: Provided further, That this subsection does not confer on such citizens of Puerto Rico the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. This subsection, however, shall not prevent a citizen of Puerto Rico from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

SEC. 312. DEFENSE.

(a) Specific arrangements for the use of military areas by the United States in Puerto Rico, and to meet United States defense interests, shall be negotiated by a task force established by the Joint Transition Commission, and approved in accordance with the constitutional processes of the

United States and Puerto Rico, and shall come into effect simultaneously with the proclamation of independence. These specific arrangements shall include—

(1) detailed operating rights and status of forces agreements executed by the Government of Puerto Rico and the Government of the United States of America providing for continued use and unrestricted access, by the Government of the United States, to military installations and facilities, and Coast Guard facilities, to the same extent, and in the same manner, of use and access as existed during the period of time prior to the referendum provided for in section 101 of this Act;

(2) an agreement by the Government of Puerto Rico to deny to third countries any access to or use of the territory of Puerto Rico for military purposes, except as specifically authorized by the Government of the United States; and

(3) an agreement by the Government of Puerto Rico that the foregoing conditions will remain in full force and effect until terminated or otherwise amended by mutual consent of the Governments of Puerto Rico and of the United States: Provided, That either party may at any time request the initiation of renegotiations of such conditions.

(b) Mutual consent by the United States to any alteration, modification, amendment, limitation, termination, or other change in the agreement referred to in paragraph (2) shall occur only pursuant to a specific Act of Congress.

SEC. 313. FEDERAL PROGRAMS.

The following provisions of this title are enacted in recognition of the unique relationship between the United States and Puerto Rico, to affect a smooth and fair transition for the new Republic of Puerto Rico with a minimum of economic disruption, and to promote the development of a viable economy in the new Republic of Puerto Rico:

(a) All Federal programs shall continue to apply in Puerto Rico until the end of the fiscal year in which independence is proclaimed, at which time, a grant shall be paid to the Republic of Puerto Rico pursuant to subsection (3).

(b) Specific arrangements for the continuation or phase-out of Federal programs shall be negotiated by a Task Force on Economic Assistance established by the Joint Transition Commission and approved in accordance with the constitutional processes of Puerto Rico and the United States, and shall come into effect simultaneously with the proclamation of independence. In general, the specific arrangements shall provide that—

(1) all Federal pension programs, such as veterans and civil service benefits, shall continue as provided by United States law;

(2) prior to the end of the fiscal year in which independence is proclaimed, an estimate will be determined by the Comptroller General of the United States of the total number of grants, programs, and services, including Medicare, provided by the Federal Government in Puerto Rico in such fiscal year, except for those grants, programs, and services which will otherwise continue under this Act;

(3) a grant equal to the amount established under paragraph (2) shall be paid annually to the Republic of Puerto Rico beginning in the fiscal year following the year in which independence is proclaimed, through the ninth year following the certification of the referendum;

(4) the United States will fulfill any contractual obligations outstanding at the time of the proclamation of independence; and

(5) Puerto Rico may request that the United States renew or continue any existing contractual obligations: Provided, That Puerto Rico agrees that the cost of such renewal or continuation shall be deducted from the annual grant made under paragraph (3).

(c) There are authorized to be appropriated such sums as may be necessary to fulfill the purposes of this section.

[*SEC. 314. SOCIAL SECURITY.*]

SEC. 314. SOCIAL SECURITY AND UNEMPLOYMENT INSURANCE.

(a) The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Social Security [*to protect the rights of workers who have permanently insured status under the Old Age, Survivors and Disability Insurance programs under title II of the Social Security Act, as of five years subsequent to the certification of the referendum, and to negotiate agreements necessary for the coordination of the Social Security System of the United States with a similar system to be established in the new Republic of Puerto Rico*] ***to negotiate agreements necessary for the coordination of the social security system of the United States established by title II of the Social Security Act with a similar system to be established in the new Republic of Puerto Rico. Such agreements shall protect the benefit rights of all individuals who have attained benefit eligibility under such title as of 5 calendar years subsequent to the certification of the referendum and shall provide appropriate credit for others who have contributed to such system.*** *Any such agreement shall be approved in*

accordance with the constitutional processes of Puerto Rico and the United States.

(b) In order to provide adequate time for the negotiation and implementation of the agreements provided for in (a), the [*current*] *provisions of the Old Age, Survivors, and Disability Insurance programs under title II of the Social Security Act* ***and the related provisions of chapters 2 and 21 of the Internal Revenue Code of 1986*** *shall apply* [*for five years subsequent to the certification of the referendum under section 101 of this Act*] ***until the end of the 5th calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.***

(c) Except as otherwise provided in this section, all programs operated under the Social Security Act shall cease to apply in Puerto Rico at the end of the fiscal year in which independence is proclaimed.

(d) Notwithstanding any other provision of law, on December 31 of the year in which a proclamation of independence is issued under section 307(d) of this Act—

(1) any amounts remaining in the Unemployment Trust Fund which are allocable to Puerto Rico shall be transferred to the Republic of Puerto Rico; and

(2) the Republic of Puerto Rico shall cease to be treated as a State for purposes of chapter 23 of the Internal Revenue Code of 1986, titles III, IX, and XII of the Social Security Act, the Federal-State Extended Unemployment Compensation Act of 1970, and any similar law of the United States relating to unemployment taxes or benefits.

(e) Any person who is a citizen of the United States (as described in section 316(c) of this Act, without regard to clauses (i) and (ii) of subparagraph (B)) shall not be treated as an employee for purposes of any law described in subsection (d)(2).

[*SEC. 315. MEDICARE.*

[*The Joint Transition Commission established under section 305 of this Act shall establish a Task Force on Medicare to negotiate agreements necessary for the coordination of the Medicare system of the United States with a similar system to be established in the new Republic of Puerto Rico. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.*

[*SEC. 316. TRADE RELATIONS.*

[*(a) Until the proclamation of independence trade relations between Puerto Rico and the United States shall be as currently provided by law.*

[*(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop specific provisions governing trade between the United States and Puerto Rico following the Proclamation of Independence. Congress expresses its willingness to consider a mutual free trade arrangement if negotiated. In the absence of any such agreement, Puerto Rico shall be afforded most favored nation status and: Provided, That Puerto Rico meets all criteria and requirements under the Caribbean Basin Economic Recovery Act, designation as a beneficiary country under the Caribbean Basin Initiative.*

[*(c) In order to assist Puerto Rico subsequent to the Proclamation of Independence, the President is encouraged to seek to obtain favorable tariff treatment for exports from Puerto Rico from other nations and to encourage other countries to designate Puerto Rico as a beneficiary under their respective General Systems of Trade Preferences.*

[*SEC. 317. TAXATION.*

[*(a) Effective on the date of proclamation of independence, the tax credit allowed under section 936 of the United States Internal Revenue Code shall not be available with*

respect to income or investments from activity in Puerto Rico.

[(b) The Joint Commission established under section 305 of this Act shall establish a Task Force on Taxation to negotiate appropriate Tax Treaties to govern relations between the United States and Puerto Rico. Such agreements shall be approved by the government of Puerto Rico and the United States in accordance with their respective constitutional processes.]

SEC. 315. TRADE RELATIONS.

(a) It is the sense of the Congress that—

(1) the United States should continue to maintain an open trading relationship with the Republic of Puerto Rico after a proclamation of independence is issued under this title, and

(2) the President should—

(A) seek to obtain favorable treatment from other countries for exports from Puerto Rico, and

(B) encourage other countries to maintain open trading relationships with Puerto Rico and to designate Puerto Rico as a beneficiary under any preferential trade arrangements such other countries maintain.

(b) The Joint Transition Commission shall establish a Task Force on Trade to consider and develop the manner in which trade between the United States and the Republic of Puerto Rico will be governed following the Proclamation of Independence. The Task Force on Trade shall submit a report on its deliberations, along with its recommendations, to the President, the Committee on Finance of the United States Senate, and the Committee on Ways and Means of the House of Representatives.

(c) Beginning on the date of the issuance of the proclamation of independence under section 307(d) of this Act, the applicable rate of duty of the general subcolumn of column 1 of the Harmonized Tariff Schedule of the United States shall apply to products of the Republic of Puerto Rico entered or withdrawn from warehouse on or after such date.

(d)(1) Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting in alphabetical sequence "Puerto Rico, the Republic of".

(2)(A) Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended—

(i) by striking "Commonwealth of Puerto Rico" in the flush paragraph at the end of paragraph (1),

(ii) by striking "(other than the Commonwealth of Puerto Rico)" in this flush paragraph at the end of paragraph (1), and

(iii) by striking paragraphs (4) and (5).

(B) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(i) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(ii) by striking "produced in Puerto Rico or" and inserting "produced in".

(C) Section 214 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 1319 note) is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(3) The amendments made by this subsection shall take effect on the date the proclamation of independence is issued under section 307(d) of this Act.

(e)(1) During the 5-year period beginning on the date the proclamation of independence is issued

under section 307(d) of this Act, the President may enter into a trade agreement with the Republic of Puerto Rico that provides for the reduction or elimination of any duty imposed by the United States, the elimination of any other barriers, and the establishment of a free trade area between Puerto Rico and the United States.

(2) A trade agreement entered into under this subsection shall be reciprocal and shall provide for mutual reductions in trade barriers to promote trade, economic growth, and employment.

(3) Before the President enters into any trade agreement under this subsection, the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(4) The consultation under paragraph (4) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988; and

(C) all matters relating to the implementation of the agreement under subsection (f).

(f)(1) Any agreement entered into under subsection (e) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

(B) after entering into the agreement, the President submits a document to the House of Representatives and the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(g) The provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall apply to any draft of a bill implementing a trade agreement entered into under subsection (e).

(h) Each period of time described in subsection (f) shall be computed without regard to—

(1) the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 316. TAXATION.

(a) Except as provided in this section, the Republic of Puerto Rico shall, on and after the date of proclamation of independence under section 307, be

treated for purposes of the internal revenue laws of the United States as a foreign country.

(b)(1) In the case of a taxable year in the transition period, the credit under section 936 of the Internal Revenue Code of 1986—

(A) shall be allowable to a taxpayer only if such taxpayer (or a predecessor) elected the application of such section for its taxable year which included the date of the certification of the referendum under section 101(c) of this Act, and

(B) shall be equal to the applicable percentage of the lesser of—

(i) the amount of such credit determined without regard to this subsection, or

(ii) 130 percent of the average amount of such credit of the taxpayer and its predecessors for the 3-taxable year period ending with the taxpayer's last taxable year ending before August 1, 1990 (not taking into account years in which the taxpayer or any predecessor was not in existence).

If neither the taxpayer nor any predecessor has a taxable year ending before August 1, 1990, the

amount under clause (ii) shall be treated as being equal to the amount of such credit of the taxpayer for its 1st taxable year ending on or after August 1, 1990 (adjusted as provided by the Secretary in the case of a short taxable year).

(2) For purposes of this subsection, the applicable percentage for any taxable year in the transition period shall be determined in accordance with the following table:

In the case of the following year in such period:	*The applicable percentage is:*
1st taxable year	*75 percent*
2nd taxable year	*50 percent*
3rd taxable year	*25 percent*
4th and following taxable year	*0 percent.*

(3) For purposes of this subsection, the term "transition period" means, with respect to any taxpayer, the period beginning with the taxpayer's 2nd taxable year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(c)(1) In the case of taxable years ending on or after the date of proclamation of independence under section 307, section 933 of the Internal Revenue Code of 1986 shall continue to apply, but only with respect to bona fide residents of Puerto Rico—

(A) who are citizens of the United States under the provisions of the Puerto Rican Fed-

eral Relations Act (commonly known as the "Jones Act", 48 U.S.C. 731 et seq.) and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) solely by reason of—

(i) being born in Puerto Rico,

(ii) being a child of parents who are citizens of the United States under such Acts solely by reason of being born in Puerto Rico, or

(iii) being described in both clause (i) and clause (ii), and

(B) who, during such taxable year, have neither—

(i) earned income (as defined in section 911(d)(2) of such Code) in excess of the maximum amount of foreign earned income which may be excluded for such taxable year under section 911 of such Code, nor

(ii) income other than earned income (as so defined) in excess of the sum of such individual's standard deduction and the deductions for personal exemptions allowable under such Code to such individual for such taxable year.

(2) If an individual described in paragraph (1) of this subsection is married to an individual not described in such paragraph, paragraph (1) shall apply to the individual described in such paragraph only if such individuals file separate income tax returns.

(d)(1) In the case of calendar years beginning after the date of the certification of the referendum under section 101(c) of this Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1900 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be equal to the applicable percentage of such taxes and customs duties.

(2) For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

In the case of the—	*The applicable percentage is:*
1st year	*80 percent*
2nd year	*60 percent*
3rd year	*40 percent*
4th year	*20 percent*
5th and following years	*0 percent.*

(e)(1) Except as provided in paragraph (2), for any calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act—

(A) clause (i) of section 42(h)(3)(C) of the Internal Revenue Code of 1986 shall not apply with respect to Puerto Rico, and

(B) section 42(h)(4) of such Code shall not apply to any building placed in service in Puerto Rico after the calendar year in which such date occurs.

(2) For purposes of paragraph (1)(B), a building shall be treated as placed in service before the 1st calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act if—

(A) the bonds with respect to such building are issued before such 1st calendar year,

(B) the taxpayer's basis in the project (of which the building is a part), as of the close of the calendar year in which such date occurs, is more than 10 percent of the estimated project costs, and

(C) such building is placed in service before the beginning of the 3rd calendar year beginning after such date.

(f) Section 103(a) of the Internal Revenue Code of 1986 shall continue to apply to bonds issued by Puerto Rico or any political subdivision on or before

(but not after) the last day of the 5th calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(g) In the case of any transfer of property after September 27, 1990, and before the date of proclamation of independence under section 307 by a donor to whom section 2501(c) of the Internal Revenue Code of 1986 applies by reason of being a resident of Puerto Rico—

(1) if such donor dies on or after such date of proclamation of independence, the value of such property shall be included in the donor's gross estate if the donor or the donor's spouse retains directly or indirectly any beneficial interest in such property as of the date of death or disposes of such interest within 3 years before such date of death, and

(2) for purposes of applying subtitle B of such Code to any transfer, or to the estate of any decedent dying, after such date of proclamation of independence, such transfer of property shall be taken into account in computing taxable gifts and adjusted taxable gifts.

SEC. [318.] 317. CURRENCY AND FINANCE.

(a) The Joint Transition Commission established under section 305 shall establish a Task Force on Currency and Finance to negotiate an agreement to assist the Republic of Puerto Rico in the design and establishment of a deposit insurance system, to determine the extent of financial support to be provided for the system by United States insurance organizations in which Puerto Rico's financial institutions currently participate, and to make the necessary arrangements with respect to the use of United States currency by the Republic of Puerto Rico if so requested by the Republic. Any such agreement shall be approved in accordance with the constitutional processes of Puerto Rico and the United States.

(b) The guarantees provided by the Government of the United States to investors in the secondary market for existing loans, particularly mortgage loans guaranteed by the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLM) and other United States Government instrumentalities, shall be maintained for Puerto Rico-originated loans existing on the date of the proclamation until maturity.

SEC. [319.] 318. PUBLIC DEBT.

The debts, liabilities, and obligations of the Commonwealth of Puerto Rico, its municipalities and instrumental-

ities, valid and outstanding upon the date of the proclamation of independence, shall be assumed by the Republic of Puerto Rico. [The tax treatment of any such obligations shall be unaffected by the proclamation of independence to the extent that similar obligations issued by states are so treated.]

TITLE IV—COMMONWEALTH

SEC. 401. PROVISIONS.

Should Commonwealth be certified, under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, the provisions of this title shall go into effect on October 1, 1991.

SEC. 402. PRINCIPLES OF COMMONWEALTH.

(a) The Commonwealth of Puerto Rico is a self-governing body politic joined in political relationship with the United States and under the sovereignty of the United States. This relationship is permanent unless revoked by mutual consent.

(b) The policy of the United States shall be to enhance the Commonwealth relationship enjoyed by the Commonwealth of Puerto Rico and the United States to enable the people of Puerto Rico to accelerate their economic and social development, to attain maximum cultural autonomy, and in matters of government to take into account local conditions in Puerto Rico.

SEC. 403. APPLICATION OF FEDERAL LAW.

(a) Notwithstanding any other provision of law, the Governor of the Commonwealth of Puerto Rico may certify from time to time to the Speaker of the House of Representatives and the President of the Senate, that the Legislature of the Commonwealth of Puerto Rico has adopted a resolution that states that a Federal law or provision thereof should no longer apply to the Commonwealth of Puerto Rico because there is no overriding national interest in having such Federal law be applicable in the Commonwealth of Puerto Rico and such applicability does not serve the interests of the people of the Commonwealth of Puerto Rico. A Federal law or laws or provision thereof so certified shall no longer apply to the Commonwealth of Puerto Rico if a joint resolution approving the recommendation of the Government of the Commonwealth of Puerto Rico is enacted.

(b) EXPEDITED CONGRESSIONAL REVIEW.—

(1) CONGRESSIONAL RULEMAKING.—This subsection is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but is applicable only with respect to the procedure to be followed in this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith.

(2) RESOLUTION.—For purposes of this subsection, the term "resolution" means only a joint resolution, the matter after the resolving clause of which is as follows: "That the House of Representatives and the Senate approve the recommendation of the Government of the Commonwealth of Puerto Rico in the certification submitted to the Congress on , 19 ". Such resolution shall also include the certification received from the Governor of the Commonwealth of Puerto Rico and a copy of the resolution adopted by the Legislature of the Commonwealth of Puerto Rico.

(3) REFERRAL.—A resolution once introduced with respect to such a certification by the Governor of the Commonwealth of Puerto Rico shall immediately be referred by the Speaker of the House of Representatives and the President of the Senate, as the case may be, to the House Committee on Interior and Insular Affairs and to the Senate Committee on Energy and Natural Resources and at the same time to such other committees as the Speaker of the House of Representatives or the President of the Senate, respectively, shall determine.

(4) DISCHARGE.—

(A) IN GENERAL.—If the committee or committees to which a resolution with respect to a cer-

tification by the Governor of the Commonwealth of Puerto Rico has been referred has not reported it at the end of forty-five calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

(B) MOTIONS.—A motion of discharge may be made only by an individual favoring the resolution and shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) RENEWAL.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(5) FLOOR CONSIDERATION.—

(A) MOTION TO CONSIDER.—When the last committee has reported, or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) DEBATE AND CONSIDERATION.—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. An amendment to or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) DETERMINATION ON MOTIONS.—

(A) MOTIONS TO POSTPONE OR TO PROCEED TO OTHER BUSINESS.—Motions to post-

pone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) APPEALS FROM THE DECISION OF THE CHAIR.—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) SUBSEQUENT ACTION.—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

(8) COMPUTATION OF PERIOD.—For the purpose of this subsection—

(A) continuity of session is broken only by an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of any adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) This section shall not apply to—

(1) any Federal statutory law, or provision thereof, establishing directly or indirectly grants and/or services to citizens of the United States as individuals;

(2) any Federal statutory law, or provision thereof, relating to legislative matters within the jurisdiction of the Committee on Finance of the Senate;

[*(2)***]** ***(3)*** *any Federal statutory law or provision thereof relating to citizenship; or*

[*(3)***]** ***(4)*** *any Federal statutory law or provision thereof pertaining to the foreign relations, defense, or national security.*

(d) The Governor of Puerto Rico may enter into international agreements to promote the international interests of Puerto Rico as authorized by the President of the United States and consistent with the laws and international obligations of the United States.

SEC. 404. REGULATORY REVIEW.

(a) For the purposes of this section, the definitions in title 5, United States Code, section 551, apply.

(b) All agencies shall be guided by the policy stated in section 402 when carrying out their duties under statutes and rules applicable in or affecting the Commonwealth of Puerto Rico. Any agency that engages in rulemaking pursuant to

title 5, United States Code, section 553, shall include in the concise general statement of the basis and purpose of any final rules adopted in response to any data, views, or arguments submitted to it that raise a question of the consistency of such rules with such policy.

(c) When an agency publishes in the Federal Register any final rule (other than a rule issued after notice and hearing required by statute), that does by its terms apply in the Commonwealth of Puerto Rico, the Governor of the Commonwealth of Puerto Rico may submit to the agency within thirty days (or such longer period as the agency may have prescribed as the period between publication of the rule and its effectiveness) the Governor's determination that such rule is inconsistent with such policy and, if appropriate, of how it could be made consistent. Thereupon, the agency shall reconsider the question of the consistency of its rule with such policy and shall, within forty-five days of its receipt of the Governor's determination, publish in the Federal Register its finding either—

(1) that—

(A) by the terms of the statute pursuant to which the rule is made the agency has no discretion to make the rule inapplicable in the Commonwealth of Puerto Rico or to vary the terms of

the rule in its application to the Commonwealth or,

(B) there is a national interest that the rule be applicable in Puerto Rico in the terms in which it was published, or

(2) that the rule is not consistent with such policy, in which case the rule, whether or not previously applicable in the Commonwealth of Puerto Rico in accordance with its terms as published, shall not be so applicable or shall be applicable only in accordance with the terms specified in the agency's finding.

(3) Within sixty days of the publication by an agency of the finding provided for in paragraph (1) the Governor of the Commonwealth of Puerto Rico, if aggrieved by such finding, may petition for review thereof in the United States Court of Appeals of the First Circuit or the District of Columbia Circuit. In any such review proceeding the scope of review shall be as prescribed in section 706 of title 5, United State Code. Federal courts shall have no jurisdiction to entertain any action brought by any other party challenging agency compliance with this subsection.

(d) This section shall not apply to any rule issued pursuant to any Federal law, or provision

thereof, relating to legislative matters within the jurisdiction of the Committee on Finance of the Senate, as described in paragraph 1(i) of Rule XXV of the Standing Rules of the Senate (as in effect on the date of the enactment of this Act).

SEC. 405. AVIATION.

The officials of the Department of State and the Department of Transportation shall seek the advice of appropriate officials of the Commonwealth of Puerto Rico when negotiating any air transportation agreements which would affect air traffic to or from the Commonwealth of Puerto Rico.

[***SEC. 406. INTERNATIONAL TRADE.***

[*(a) Section 2 of the Act of April 12, 1900 (48 U.S.C. 739), is amended by inserting the following subsection:*

[*"(1) As strictly limited by the international obligations of the United States, the Commonwealth of Puerto Rico is authorized to impose tariff duties on foreign origin products imported into Puerto Rico from outside the customs territory of the United States. Such tariff duties may be in addition to the general tariff duties imposed by the United States if such general tariff duties are not subject to United States international obligations, or in cases where the general duty is applied at a rate below that which is subject to United States international obligations. In the latter*

case, the combined duties shall not exceed the level for which a United States international obligation exists.".

[(b) Section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902), is amended by adding a new subsection (e) as follows:

["(e)(1) During the negotiation of any trade agreement under subsections (a), (b), and (c), it is the sense of the Senate that the President should consider the effects of any proposed tariff rate or any proposed changes in nontariff measures on the economy of Puerto Rico and should consult with the Governor of the Commonwealth of Puerto Rico concerning such potential effects before concluding international trade negotiations.

[(2) It is the sense of the Senate that the President should seek to obtain favorable treatment from foreign countries for exports from the Commonwealth of Puerto Rico and should take steps to encourage other countries to consider Puerto Rico as a developing area for purposes of their respective Generalized Systems of Trade Preferences schemes, and any such regional systems of trade preferences.".]

SEC. 406. CARIBBEAN BASIN ECONOMIC RECOVERY ACT AMENDMENTS.

(a) Section 214(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 note) is amended—

(1) by striking "the treasuries of Puerto Rico or" and inserting "the treasury of", and

(2) by striking "produced in Puerto Rico or" and inserting "produced in".

(b) The amendments made by subsection (a) shall take effect on the first day of the 5th calendar year following the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs.

SEC. 407. FEDERAL PROGRAMS: CONSOLIDATION OF GRANT-IN-AID PROGRAMS.

[*Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,".*]

Section 501 of Public Law 95–134 (91 Stat. 1159, 1164) as amended, is further amended—

(1) by deleting "Virgin Islands," and inserting in lieu thereof "Virgin Islands, Puerto Rico,"; and

(2) by adding at the end of subsection (a) the following new sentence: "In the case of Puerto Rico, no consolidation of such grants may be made with respect to any programs established or operated under the Social Security Act.".

SEC. 408. CONSULTATION IN APPOINTEES AND NOMINATIONS.

(a) In considering the qualifications of persons who may be appointed to serve as: Supervisor, Caribbean National Forest; Superintendent, San Juan Historic Site; Manager, Department of Housing and Urban Development, San Juan; Director, Caribbean Field Office, Environmental Protection Agency; Director, Farmer's Home Administration, San Juan; District Director, United States Customs Service, San Juan; District Director, Small Business Administration; and District Director, Immigration and Naturalization Service; the head of such department or agency shall consult with the Governor or other appropriate official in Puerto Rico as to whether there are special circumstances or qualifications which should be considered in making the appointment.

(b) Prior to nominating any person to serve in Puerto Rico whose appointment requires the advice and consent of the Senate of the United States, the President shall consult with the Governor as to whether there are any special cir-

cumstances or qualifications which should be considered in deciding on a nomination. Nothing in this section requires or prohibits the disclosure of individuals under consideration for such position nor as a limitation on the ability of the heads of agencies to appoint, or the President to nominate any individual. This subsection shall not apply with respect to any position in the Armed Forces of the United States, the Coast Guard, and in agencies engaged in law enforcement.

SEC. 409. PUERTO RICO LIAISON OFFICE.

(a) There is hereby established the Office of Senate Liaison for the Commonwealth of Puerto Rico ("Office"). The Office shall be headed by an individual appointed by the Governor of Puerto Rico and who shall serve at the pleasure of the Governor and who shall be known as the Puerto Rico Liaison. The purposes of the Office shall be to facilitate the exchange of information between the Senate and the Government of Puerto Rico.

(b) The Committee on Rules and Administration shall determine what facilities and services shall be available to such Office. All personnel of such Office shall be issued such identification as will entitle them to the same privileges as are afforded to employees of the Congressional Research Service and no employee of the Office shall be permitted privilege of the Senate floor.

(c) There are authorized to be appropriated annually $600,000 for salaries and $56,000 for office expenses of the Office. The Liaison shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office, including the Liaison, while not employees of the Senate, shall, other than as provided in subsection (b), be treated as if they were employees of the Senate with respect to pay and employment benefits, rights, privileges, and restrictions and shall be subject to all requirements otherwise applicable to employees of the Senate.

(d) The Office shall be subject to the jurisdiction of the Committee on Rules and Administration.

SEC. 410. PASSPORTS.

(a) The following new section shall be added to title 22 as section 211b:

"SECTION 211b. UNITED STATES PASSPORT OFFICE IN PUERTO RICO.

"The Secretary of State shall establish a Passport Office for the Caribbean located in San Juan, Puerto Rico.

"(b) The Secretary of State and the Attorney General shall consult with the Governor of Puerto Rico to determine what administrative actions can be taken to expedite the processing of visas and also to provide an expedited consideration of visas where the Governor makes such a request to accom-

modate an individual or individuals who have been invited to Puerto Rico by the Governor and shall report to Congress on such consultations and administrative action by March 15, 1990.".

SEC. 411. COMMUNITY VALUES.

The actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(a) Definitions.—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(2) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and television stations and cable television operators licensed to operate in Puerto Rico and shall include any individual acting on behalf of such person; and

(3) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of violence in telecast material, (2) alleviate the negative impact of illegal drug use in telecast material, and (3) alleviate the negative impact of sexually explicit material in telecast material, and promote local programming in the Commonwealth of Puerto Rico.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in section 2 shall apply only to activities conducted within thirty-six months after the date of enactment of this Act, but may be extended for other thirty-six-month periods upon declaration by the Governor of Puerto Rico.

SEC. 412. FEDERAL PROPERTIES.

(a)(1) The President shall report to Congress by March 15, 1990, on the eight Federal properties listed in paragraph (3) below. The report shall include an assessment of the Fed-

eral need for each property, the costs and/or benefits of disposal of each property, and the comments of the Government of the Commonwealth of Puerto Rico regarding each property.

(2) Unless the President finds that there is a national interest which requires continued Federal ownership of each property, then he shall provide for the transfer of such properties to the Commonwealth of Puerto Rico according to such terms as he determines to be appropriate with respect to each.

(3) Identified Properties:

(A) The Federal courthouse in Old San Juan;

(B) Former Stop 7½ Naval Residence;

(C) San Geronimo Quarters;

(D) Custom House in San Juan;

(E) Custom House in Mayaguez;

(F) Custom House in Ponce;

(G) Custom House in Fajardo; and

(H) Coast Guard facility at Puntilla.

SEC. 413. SAN JUAN NATIONAL HISTORIC SITE ADVISORY COMMISSION.

(a) There is hereby established a commission to be known as the San Juan National Historic Site Advisory Commission ("the commission") which shall regularly advise the Secretary of the Interior ("the Secretary") on the oper-

ation, management, and administration of the San Juan National Historic Site ("the site").

(b) The commission shall consist of the Governor of the Commonwealth of Puerto Rico (or the Governor's designee), the Director of the National Park Service (or the Director's designee), three members to be appointed by the Governor of the Commonwealth of Puerto Rico, and three members to be appointed by the Secretary. One of the members appointed by the Governor and one member appointed by the Secretary shall serve as cochairpersons of the commission.

(c)(1) Members appointed to the commission by the Governor and the Secretary shall be appointed for a term of four years. A member may serve after the expiration of his term until his successor has taken office.

(2) Any vacancy on the commission shall be filled in the manner the original appointment was made.

(3) Members of the commission shall receive no additional pay, allowances, or benefits as a result of their service on the commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this section on vouchers signed by the cochairpersons;

(4) A majority of the members of the commission shall constitute a quorum but a lesser number may hold hearings. Each member of the commission shall be entitled to one vote,

which shall be equal to the vote of every other member of the commission.

(5) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the commission.

(d) The Secretary shall from time to time, but at least annually, meet with the commission on matters relating to the planning, management and administration of the site. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The commission shall provide the public with adequate notice of such meetings.

(e) The commission shall prepare annually and transmit to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, a report containing such information and recommendations regarding the operation, management, and administration of the site as the commission deems desirable, including but not limited to recommendations with respect to the revision of the general management plan for the site.

SEC. 414. TAXATION.

(a)(1) Section 936(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied—

(A) in the case of a corporation's 4th taxable year beginning after the date of the certification of the referendum under section 101(c) of this Act, by substituting "80 percent" for "75 percent", and

(B) in the case of a corporation's subsequent taxable years, by substituting "85 percent" for "75 percent".

(2) For purposes of paragraph (1), a taxpayer whose 1st taxable year begins after the certification date shall be treated as if such taxpayer had such a taxable year (and subsequent taxable years) in effect on (and after) such date.

(b)(1) In the case of each fiscal year which begins in a calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, notwithstanding section 7652 of the Internal Revenue Code of 1986 and section 4 of the Act of April 12, 1990 (31 Stat. 78), the amount of taxes and customs duties covered into the treasury of Puerto Rico under such sections shall be reduced (but not below zero) by the greater of the basic reduction under paragraph (2) or the excess of—

(A) the amounts payable with respect to such year to Puerto Rico under parts A and E

of title IV, title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of the Social Security Act, over

(B) the sum of the amount determined under paragraph (3), plus $161,000,000.

(2) For purposes of paragraph (1), the basic reduction shall be determined in accordance with the following table:

"In the case of the following years to which this subsection applies:	*The basic reduction is:*
1st	*$120,000,000*
2nd	*$250,000,000*
3rd	*$325,000,000*
4th	*$443,000,000*
5th and subsequent	*$422,000,000*

(3) For purposes of paragraph (1)(B), the amount determined under this paragraph is determined in accordance with the following table:

"In the case of the following years to which this subsection applies:	*The reduction is:*
1st	*$0*
2nd	*$0*
3rd	*$30,000,000*
4th	*$80,000,000*
5th and subsequent	*$101,000,000*

(4)(A) In the case of the 5th and following fiscal years to which paragraph (1) applies, there shall be substituted for the $422,000,000 amount in the table under paragraph (2) and for the $101,000,000 amount in the table under paragraph

(3), respectively, an amount equal to such amount multiplied by the applicable ratio.

(B) The applicable ratio for any fiscal year is the percentage arrived at by dividing—

(i) the gross national product for the calendar year preceding the calendar year in which the fiscal year begins, by

(ii) the gross national product for the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act.

(C) GROSS NATIONAL PRODUCT.—The gross national product for any calendar year is the last determination of such gross national product published as of October 1 of the succeeding calendar year by the Bureau of Economic Analysis of the Department of Commerce.

SEC. 415. OPERATION OF AND TRANSITION FOR CERTAIN ENTITLEMENTS.

(a)(1) Except as otherwise provided in this subsection, if Commonwealth for Puerto Rico is certified under section 101 of this Act, as having obtained a majority of the votes cast in the referendum, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secre-

tary") shall provide, beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, and subject to paragraph (2), that no payments be made to the Commonwealth of Puerto Rico under title XVI of the Social Security Act (as in effect before the date of the enactment of Public Law 92-603), or under titles I, X, or XIV of the Social Security Act, or under title XIX of the Social Security Act unless the Secretary determines that assistance levels applicable to aged, blind, or disabled in Puerto Rico under titles I, X, XIV, or XVI are set at levels consistent with the levels provided under section 1611(a)(1)(A) and 1611(b)(1) of the Social Security Act adjusted so as not to exceed 50 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce), and under section 1611(a)(2)(A) and 1611(b)(2) of the Social Security Act adjusted so as not to exceed 75 percent of the per capita income of Puerto Rico (as determined on the basis of the most recent reliable data available from the Secretary of Commerce). The Secretary shall promulgate the amounts determined under this paragraph for Puerto Rico at

the same time and in the same manner as amounts are promulgated for cost of living adjustments in benefits under section 1617 of the Social Security Act.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the provisions described in paragraph (1), shall be implemented on a modified basis providing that benefit levels under any of the programs described in paragraph (1) shall after any reduction under the per capita limitation described in paragraph (1) be set at—

(A) 25 percent of the otherwise applicable level in such 2nd calendar year;

(B) 50 percent of such level in the calendar year immediately following such 2nd calendar year; and

(C) 75 percent of such level in the 2nd calendar year following such 2nd calendar year.

(b)(1) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, Federal funding of the Aid to Families with Dependent Children program provided under part A of title

IV of the Social Security Act shall be set at 50 percent of the total cost of providing benefits under such program.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Aid to Families with Dependent Children program operated in Puerto Rico.

(c)(1) The Medicaid program provided for under title XIX of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except as may be provided for through agreement of the Government of Puerto Rico and the Secretary.

(2) Beginning on January 1 of the 2nd calendar year beginning after the date of the certification of the referendum under section 101(c) of this Act, the limitation on expenditures provided for under section 1108 of the Social Security Act shall not apply with respect to expenditures under the Medicaid program operated in Puerto Rico, except that for the 1st 3 fiscal years beginning after the end of the calen-

dar year in which the date of the certification of the referendum under section 101(c) of this Act occurs Federal payments to Puerto Rico with respect to title XIX of the Social Security Act shall not exceed an amount equal to $79,000,000, increased by the applicable percentage of the excess of the amount payable without regard to such section 1108 over $79,000,000. The applicable percentage is 25 percent for the 1st such fiscal year, 50 percent for the 2nd such fiscal year, and 75 percent for the 3rd such fiscal year.

(d) The Secretary shall reduce the amounts otherwise payable to Puerto Rico under parts A and E of title IV, title XVI (as in effect before the date of the enactment of Public Law 92-603), and title XIX of the Social Security Act with respect to expenditures under such titles for any fiscal year beginning after the end of the calendar year in which the date of the certification of the referendum under section 101(c) of this Act occurs to the extent that the sum of such amounts exceeds the sum of—

(1) $161,000,000, plus

(2) the amount which, but for the provisions of section 414(b) of this Act, would have been covered over to Puerto Rico for excise

taxes and custom duties under the laws in effect as of January 1, 1990, plus

(3) the amount determined under section 414(b)(3) of this Act.

The Secretary of the Treasury shall make an annual determination of such amount and provide for appropriate adjustments in such amount as determined for prior years.

(e) The Medicare Hospital Insurance Benefits for the Aged and Disabled program provided for under part A of title XVIII of the Social Security Act shall continue to operate in Puerto Rico as it is operated on the date of the enactment of this Act, except that, the Prospective Payment Assessment Commission shall examine current levels of reimbursement under such part and advise the Secretary within 6 months of the date of the enactment of this Act as to whether the system in place on the date of the enactment of this Act accurately and appropriately reflects cost differentials between Puerto Rico and the States. The Secretary shall, if such study finds that the system in effect on the date of the enactment of this Act does not accurately reflect such cost differentials, submit to the appropriate committees of Congress within 6 months of the date

of completion of such study a legislative proposal to correct any deficiencies in the reimbursement system.

(f)(1) Except as provided in paragraph (2), in the case of any fiscal year, beginning with the 5th fiscal year beginning after the date of the certification of the referendum under section 101(c) of this Act, Puerto Rico shall be treated as a State for purposes of determining the amount of its allocation of funds under title XX of the Social Security Act.

(2) Notwithstanding section 2003(b) of the Social Security Act, Puerto Rico shall be responsible for 50 percent of the cost of the allocation of funds described in paragraph (1).

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